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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, February 7, 2012
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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SMALL BUSINESS ADMINISTRATION

13 CFR Parts 124, 125, 126, and 127

RIN 3245–AG34

Women-Owned Small Business Federal Contract Program

AGENCY: U.S. Small Business Administration.

ACTION: Interim final rule; request for comments.

SUMMARY: The U.S. Small Business Administration (SBA) is amending its regulations to make them consistent with the inflationary adjustments that are already codified in the Federal Acquisition Regulation (FAR) as they relate to the Women-Owned Small Business (WOSB) Program and the Simplified Acquisition Threshold. In addition, the SBA is amending its regulations pertaining to the WOSB Program protest procedures so that they are consistent with the protest procedures for SBA's other government contracting programs.

DATES: *Effective Date:* This rule is effective on January 12, 2012.

Comment Date: Comments must be received on or before February 13, 2012.

ADDRESSES: You may submit comments, identified by RIN 3245–AG06 by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov* and follow the instructions for submitting comments.
- *Mail, for paper, disk, or CD–ROM submissions:* Dean Koppel, Assistant Director for Policy and Research, 409 Third Street SW., Washington, DC 20416.
- *Hand Delivery/Courier:* Dean Koppel, Assistant Director for Policy and Research, 409 Third Street SW., Washington, DC 20416.

SBA will post all comments on *http://www.Regulations.gov*. If you wish to submit confidential business information (CBI) as defined in the User Notice at *http://www.Regulations.gov*, please submit the information to Dean Koppel and highlight the information that you consider to be CBI and explain why you believe this information should be held confidential. SBA will review the information and make a final determination of whether the information will be published or not.

FOR FURTHER INFORMATION CONTACT: Dean Koppel, Assistant Director for Policy, and Research, at (202) 205–7322 or by email at *dean.koppel@sba.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 811 of the Small Business Reauthorization Act of 2000, Public Law 106–554, added section 8(m) to the Small Business Act, 15 U.S.C. 637(m), authorizing Federal contracting officers to restrict competition to eligible Women-Owned Small Businesses (WOSBs) or Economically Disadvantaged Women-Owned Small Business (EDWOSBs) for Federal contracts in certain industries. Section 8(m) of the Small Business Act (Act) sets forth certain criteria for the WOSB Program. Specifically, the Act provides the following requirements in order for a contracting officer to restrict competition for EDWOSBs or WOSBS under this program:

- An eligible concern must be not less than 51 percent owned by one or more women who are ''economically disadvantaged'' (*i.e.* an EDWOSB). However, SBA may waive this requirement of economic disadvantage for procurements in industries in which WOSBs are ''substantially underrepresented.''
- A WOSB is a small business concern owned and controlled by women, as defined in section 3(n) of the Act. Section 3(n) of the Act defines a women owned business as one that is at least 51 percent owned by one or more women and the management and daily business operations of the concern is controlled by one or more women. 15 U.S.C. 632(n).
- The contracting officer must have a reasonable expectation that, in industries in which WOSBs are underrepresented, two or more EDWOSBs will submit offers for the contract or, in industries where WOSBs are substantially under represented, two or more WOSBs will submit offers for the contract.
- *The anticipated award price of the contract must not exceed $5 million in the case of manufacturing contracts and $3 million in the case of all other contracts.*
- In the estimation of the contracting officer, the contract can be awarded at a fair and reasonable price.
- Each competing concern must be duly certified by a national certifying entity approved by SBA, as an EDWOSB or WOSB, or must self-certify to the contracting officer and provide adequate documentation that it is an EDWOSB or WOSB. The statute imposes penalties for a concern's misrepresentation of its status.
- The contract must be for the procurement of goods or services with respect to an industry identified by SBA pursuant to a statutorily mandated study as one in which EDWOSBs are underrepresented or substantially underrepresented or WOSBs are substantially underrepresented with respect to Federal procurement.

Thus, the Small Business Act sets forth statutory thresholds of $5 million and $3 million for contracts awarded under this program. 15 U.S.C. 637(m)(2)(D). These thresholds have been in statute since 2000.

Recently, the SBA implemented the WOSB program by publishing a final rule in the **Federal Register** on October 7, 2010, (75 FR 62258). That final rule sets forth the procedures for the WOSB Program and included the above-referenced statutory thresholds of $5 million and $3 million.

Subsequent to SBA's publication of the final rule in the **Federal Register**, the Federal Acquisition Regulatory (FAR) Council published an interim final rule in the **Federal Register** on April 1, 2011 (76 FR 18304) that incorporated provisions of the WOSB Program into the FAR. The FAR Council is authorized by 41 U.S.C 431a to review all statutes with dollar based acquisition-related thresholds and adjust for inflation where appropriate. Accordingly, in this interim final rule, the FAR Council adjusted the statutory thresholds of $5 million and $3 million for contracts awarded under the WOSB Program. The FAR Council amended the thresholds so that the anticipated award price of the contract awarded under the WOSB Program must not exceed $6.5 million in the case of manufacturing contracts and $4 million in the case of

all other contracts. Consequently, SBA is amending these thresholds in its regulations, as well.

In addition, the WOSB Program final rule addresses application of the program for certain dollar value acquisitions. Specifically, in several sections of its regulations, SBA addresses contracting among the various SBA small business programs for acquisitions valued above and below the Simplified Acquisition Threshold. The FAR Council published a rule in the **Federal Register** on August 30, 2010, effective October 1, 2010, at 75 FR 53129, that has adjusted the Simplified Acquisition Threshold for inflation. The WOSB rule is not consistent with these changes. For example, the WOSB rule states that the Simplified Acquisition Threshold is $100,000, but the FAR has adjusted that threshold to $150,000. Consequently, SBA is amending these thresholds in its regulations, as well.

SBA is also amending its protest procedures for the WOSB Program. The SBA published a final rule in the **Federal Register** on February 2, 2011, at 76 FR 5680, amending its protest and appeal procedures for all of its government contracting programs (HUBZone, Service-Disabled Veteran-Owned (SDVO), and size programs). That final rule varies slightly from the protest procedures set forth in the WOSB Program final rule. Therefore, the SBA intends to amend the regulations so that all of its procurement program protest procedures are consistent.

Further, SBA has noticed one error in the regulations that it would like to correct. Each of these amendments is discussed below.

II. Section-By-Section Analysis

SBA is amending §§ 124.503(j), 125.2(f), 125.19(b), 126.607(b), 127.503(d), by deleting the prior Simplified Acquisition Thresholds and Micro-purchase Thresholds referenced and replacing those threshold values in all cases with the phrase ''Simplified Acquisition Threshold'' or ''Micro-purchase Threshold.'' Because these thresholds are subject to change for inflation and are commonly known in the procurement community, the SBA believes it would be best to simply refer to the terms.

The SBA is also clarifying § 127.301(a)(2), which addresses when a contracting officer may accept a business concern's self-certification in the Online Representations and Certifications Application (ORCA). The regulation explains that a contracting officer may accept a concern's self certification in ORCA if the apparent successful offeror WOSB or EDWOSB has provided the required documents. The SBA is amending the regulation to clarify that the contracting officer can accept the self-certification if, in addition to providing the required documents, there has been no protest or other credible information that calls into question the concern's eligibility as an EDWOSB or WOSB. The SBA has received some inquiries about this issue and believes it would be best to clarify it in the regulations. If there is a protest or information that calls into question an apparent awardee's eligibility, the contracting officer should not be making an award to that business concern until its status has been verified.

SBA is also amending § 127.503(a)(2) and § 127.503(b)(2) to revise the acquisition-related dollar thresholds the Federal agencies use for determining when the procuring activities can set aside a requirement for WOSBs or EDWOSBs. As discussed above, the FAR Council has adjusted these thresholds for inflation. The regulation now explains that the anticipated award price of the contract must not exceed $6.5 million in the case of manufacturing contracts and $4 million in the case of all other contracts for a WOSB or EDWOSB set aside. With this amendment, the FAR and SBA's regulations will be consistent.

SBA is also amending § 127.503 by adding a new paragraph (f) to inform the users about the FAR Council's authority to make inflationary adjustments for the WOSB Program's competitive thresholds. This information is set forth in SBA's regulations for its other contracting programs (*see e.g.* 13 CFR 126.601(a)), and SBA believes it should be in the WOSB Program rule, as well.

The SBA is also amending § 127.604, which addresses WOSB and EDWOSB protest procedures. According to the current WOSB rule, a contracting officer may award a contract after receipt of a protest if he/she determines in writing that an award must be made to prevent significant harm to the public interest. However, the final protest rule SBA issued with respect to the other government contracting programs permits a contracting officer to proceed with an award after receipt of a protest if necessary to protect the public interest. The SBA has changed the WOSB Program rule to state the same for consistency.

The SBA has also amended § 127.604(a) to clarify that even if a contracting officer determines that award must be made to protect the public interest, then notwithstanding such a determination, the provisions of paragraph (f) of that section apply to the procurement in question. Paragraph (f) addresses the effect of a WOSB or EDWOSB status determination. Again, this clarification is to ensure that the WOSB protest regulations are consistent with SBA's final protest rule issued with respect to the other government contracting programs.

In addition, the SBA is deleting the second and third sentences of current § 127.604(d), which requires the contracting officer to contact SBA if SBA has not yet issued a status determination by the 15 day deadline. The SBA's final rule on protests for its other government contracting programs did not have such a requirement, but rather explained that if SBA does not issue its determination within the 15 day period, the contracting officer may award the contract if he or she determines in writing that there is an immediate need to award the contract and that waiting until SBA makes its determination will be disadvantageous to the Government. However, notwithstanding such a determination, the contracting officer must follow the procedures outlined regarding the effect of SBA's status determination. The SBA has amended the WOSB program protest procedures to be consistent with SBA's protest procedures for its other contracting programs.

The SBA has also amended § 127.604(f)(2)(i) to explain that if a contracting officer receives an SBA determination that the apparent successful WOSB or EDWOSB is not eligible after contract award, and no Office of Hearings and Appeals appeal has been filed, the contracting officer shall terminate the award. Again, this is consistent with SBA's protest procedures for its other contracting programs.

Finally, the SBA is correcting an error in the third sentence of § 127.604(c)(1), which addresses how SBA processes a WOSB or EDWOSB status protest. Specifically, SBA is replacing the requirement that the EDWOSB submit ''the two most recent personal income tax returns'' with ''the three most recent personal income tax returns''. In § 127.402, the SBA discusses the documents to be collected for eligibility examinations and states that the agency requires the three most recent personal income tax returns. SBA intended to collect the three most recent personal income tax returns with respect to protests, as well, and so the two regulation sections need to be consistent.

III. Justification for Publication as an Interim Final Rule

In general, SBA publishes a rule for public comment before issuing a final

rule in accordance with the Administrative Procedures Act (APA) and SBA regulations. 5 U.S.C. 553 and 13 CFR 101.108. The APA provides an exception to this standard rulemaking process where an agency finds good cause to adopt a rule without prior public participation. 5 U.S.C. 553(b)(3)(B). The good cause requirement is satisfied when prior public participation is impracticable, unnecessary, or contrary to the public interest. Under such circumstances, an agency may publish an interim final rule without soliciting public comment.

In the present case, the SBA notes that Public Law 108–375, 41 U.S.C. 431a requires the FAR Council to take responsibility for adjusting each acquisition-related dollar threshold provided by law and publish a notice of the adjusted dollar thresholds in the **Federal Register**. These actions have been completed and a final rule with an immediate effective date was published in the **Federal Register** on April 1, 2011, 76 FR 18304, which affects the WOSB Program. Another such action was taken and a final rule with an immediate effective date was published in the **Federal Register** on August 30, 2010 at 75 FR 53129, which affects the Simplified Acquisition Threshold. The WOSB Program final rule contained acquisition-related dollar thresholds subject to inflationary adjustments that are currently codified in the FAR. This interim final rule is amending SBA's regulations to acknowledge and implement the adjustments that are codified in the FAR. The SBA is not establishing new or differing acquisition-related dollar thresholds with this interim final rule. Rather, SBA is merely amending its regulations to conform to the FAR and advise the users of SBA's regulations of the inflationary adjustments to SBA's small business programs every five years. Immediate implementation of the interim final rule is needed to ensure a consistency between the SBA's regulations and the FAR for the acquisition-related dollar thresholds governing small business contracting opportunities. Consequently, SBA believes it is unnecessary to publish this rule as a proposed rule because it is beneficial to the public and acquisition communities that the regulations governing the SBA's small business programs are made consistent through implementing this rule promptly.

Likewise, SBA believes it is important that the protest procedures for all of its government contracting programs be consistent. The rule governing the other programs was subject to public notice and comment; therefore, it would not be contrary to the public interest to proceed with these conforming changes to the WOSB protest procedures in an interim final rule. At this time, there have been only a few protests and no appeals such that amending these procedures will not affect many parties.

Finally, we note that the public will still have the opportunity to offer comments on this, which will be reviewed by the SBA. Accordingly, SBA finds that good cause exists to publish this rule as an interim final rule as quickly as possible.

IV. Justification for Immediate Effective Date of Interim Final Rule

The APA requires that ''publication or service of a substantive rule shall be made not less than 30 days before its effective date, except * * * as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3) SBA finds that good cause exists to make this final rule effective the same day it is published in the **Federal Register**.

The purpose of the APA provision is to provide interested and affected members of the public sufficient time to adjust their behavior before the rule takes effect. For the reasons set forth above in Section III, ''Justification for Publication as Interim Final Rule,'' SBA finds that good cause exists for making this interim final rule effective immediately, instead of observing the 30-day period between publication and effective date. Nonetheless, the public may provide comments to SBA by the deadline for comments. SBA will review any comments received.

V. Compliance With Executive Orders 12866, 12988, and 13132, and the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule does constitute a significant regulatory action under E.O. 12866. Accordingly, the next section contains SBA's Regulatory Impact Analysis. This is not a major rule, however, under the Congressional Review Act, 5 U.S.C. 800.

Regulatory Impact Analysis

1. Is there a need for the regulatory action?

This regulatory action amends regulations that implement section 8(m) of the Act, which was enacted as part of section 811 of the Small Business Reauthorization Act of 2000, Public Law 106–554. These amendments are necessary because without such amendments, the SBA's WOSB Program rules conflict with parts of the FAR and SBA's rules concerning protest procedures for its other government contract programs. Such conflict and inconsistency causes confusion to members of the procurement community, including small businesses.

2. What are the potential benefits and costs of this regulatory action?

The benefits of this rule are that there will not be a conflict between the SBA's rules and the FAR rule, or other parts of SBA's rules. Such conflicts result in confusion amongst members of the contracting community and small businesses.

3. What are the alternatives to this final rule?

The SBA considered as an alternative referencing the FAR acquisition thresholds in all cases, since those thresholds are subject to change every five years as a result of inflation, and that would mean SBA could need to amend its regulations every five years. However, the SBA believed that while it would be beneficial to reference the FAR Simplified Acquisition Thresholds and Micro-Purchase Thresholds, since those dollar values are commonly used, referred to and known in the acquisition community, the SBA did not believe it should reference the FAR with respect to the acquisition threshold relating to when a contracting officer may set aside a requirement for WOSBs or EDWOSBs. Those thresholds are new and not as well known, and should be specifically set forth in SBA's regulations, similar to how the thresholds for the 8(a), HUBZone and SDVO SBC programs are set forth in the SBA's regulations.

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For the purpose of Executive Order 13132, SBA has determined that the rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, this final rule has no federalism implications warranting the preparation of a federalism assessment.

Paperwork Reduction Act

For the purpose of the Paperwork Reduction Act, 44 U.S.C., Chapter 35, SBA has determined that this rule does not impose additional reporting or recordkeeping requirements.

Regulatory Flexibility Act (RFA)

Because this rule is an interim final rule, there is no requirement for SBA to prepare an Initial Regulatory Flexibility Act analysis. The RFA requires administrative agencies to consider the effect of their actions on small entities, small non-profit businesses, and small local governments. Pursuant to the RFA, when an agency issues a rule the agency must prepare analysis that describes whether the impact of the rule will have a significant economic impact on a substantial number of small entities. However, the RFA requires such analysis only where notice and comment rulemaking is required but as discussed above, SBA has determined that there is good cause to publish this rule without the need for public notice and comment.

List of Subjects in 13 CFR Parts 124, 125, 126, and 127

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Loan programs—business, Individuals with disabilities, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, the Small Business Administration amends 13 CFR parts 124, 125, 126, and 127 as follows:

PART 124—8(a) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS

■ 1. The authority citation for 13 CFR part 124 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d) and Pub. L. 99–661, Pub. L. 100–656, sec. 1207, Pub. L. 101–37, Pub. L. 101–574, section 8021, Pub. L. 108–87, and 42 U.S.C. 9815.

■ 2. Amend § 124.503 as follows:
■ a. Revise paragraph (j)(1); and
■ b. Revise the paragraph (j)(2) heading and the first sentence of paragraph (j)(2)(i).

The revisions read as follows:

§ 124.503 How does SBA accept a procurement for award through the 8(a) BD program?

* * * * *

(j) * * *

(1) *Acquisitions Valued At or Below the Simplified Acquisition Threshold.* The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Micro-purchase Threshold but not exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. This requirement does not preclude a contracting officer from making an award to a small business under the 8(a) BD, HUBZone, SDVO SBC or WOSB Programs.

(2) *Acquisitions Valued Above the Simplified Acquisition Threshold.* (i) The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. * * *

* * * * *

PART 125—GOVERNMENT CONTRACTING PROGRAMS

■ 3. The authority citation for 13 CFR part 125 continues to read as follows:

Authority: 15 U.S.C. 632(p), (q); 634(b)(6); 637; 644 and 657f.

■ 4. Amend § 125.2 as follows:
■ a. Revise paragraph (f)(1); and
■ b. Revise the paragraph (f)(2) heading and first sentence of paragraph (f)(2)(i).

The revisions read as follows:

§ 125.2 Prime contracting assistance.

* * * * *

(f) * * *

(1) *Acquisitions Valued At or Below the Simplified Acquisition Threshold.* The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Micro-purchase Threshold but not exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. This requirement does not preclude a contracting officer from making an award to a small business under the 8(a) BD, HUBZone, SDVO SBC or WOSB Programs.

(2) *Acquisitions Valued Above the Simplified Acquisition Threshold.* (i) The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. * * *

* * * * *

■ 5. Amend § 125.19 by:
■ a. Revising paragraph (b)(1); and
■ b. Revising the paragraph (b)(2) heading and first sentence of paragraph (b)(2)(i).

The revisions read as follows:

§ 125.19 When may a contracting officer set aside a procurement for SDVO SBCs?

* * * * *

(b) * * *

(1) *Acquisitions Valued At or Below the Simplified Acquisition Threshold.* The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Micro-purchase Threshold but not exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. This requirement does not preclude a contracting officer from making an award to a small business under the 8(a) BD, HUBZone, SDVO SBC or WOSB Programs.

(2) *Acquisitions Valued Above the Simplified Acquisition Threshold.* (i) The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. * * *

* * * * *

PART 126—HUBZONE PROGRAM

■ 6. The authority citation for part 126 continues to read as follows:

Authority: 15 U.S.C. 632(a), 632(j), 632(p) and 657a.

■ 7. Amend § 126.607 as follows:
■ a. Revise paragraph (b)(1); and
■ b. Revise the paragraph (b)(2) heading and first sentence of paragraph (b)(2)(i).

The revsions read as follows:

§ 126.607 When must a contracting officer set aside a requirement for qualified HUBZone SBCs?

* * * * *

(b) * * *

(1) *Acquisitions Valued At or Below the Simplified Acquisition Threshold.* The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Micro-purchase Threshold but not exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. This requirement does not preclude a contracting officer from making an award to a small business under the 8(a) BD, HUBZone, SDVO SBC or WOSB Programs.

(2) *Acquisitions Valued Above the Simplified Acquisition Threshold.* (i) The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. * * *

* * * * *

PART 127—WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT PROGRAM

■ 8. The authority citation for part 127 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 637(m), and 644.

■ 9. Amend § 127.301 by revising paragraph (a)(2) to read as follows:

§ 127.301 When may a contracting officer accept a concern's self-certification?

(a) * * *

(2) *Non-Third Party Certification.* A contracting officer may accept a concern's self-certification in ORCA if the apparent successful offeror WOSB or EDWOSB has provided the required documents, which are set forth in § 127.300(e), and there has been no protest or other credible information that calls into question the concern's eligibility as an EDWOSB or WOSB.

* * * * *

■ 10. Amend § 127.503 as follows:

■ a. In paragraph (a)(2), remove ''$5,000,000'' and add in its place ''$6,500,000'' and remove ''$3,000,000'' and add in its place ''$4,000,000'';

■ b. In paragraph (b)(2), remove '$5,000,000'' and add in its place ''$6,500,000'' and remove ''$3,000,000'' and add in its place ''$4,000,000'';

■ c. Revise paragraph (d)(1);

■ d. Revise the paragraph (d)(2) heading and the first sentence of paragraph (d)(2)(i); and

■ e. Add paragraph (f).

The revisions and addition read as follows:

§ 127.503 When is a contracting officer authorized to restrict competition under this part?

* * * * *

(d) * * *

(1) *Acquisitions Valued At or Below the Simplified Acquisition Threshold.* The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Micro-purchase Threshold but not exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. This requirement does not preclude a contracting officer from making an award to a small business under the 8(a) BD, HUBZone, SDVO SBC or WOSB Programs.

(2) *Acquisitions Valued Above the Simplified Acquisition Threshold.* (i) The contracting officer shall set aside any acquisition with an anticipated dollar value exceeding the Simplified Acquisition Threshold (defined in the FAR at 48 CFR 2.101) for small business concerns when there is a reasonable expectation that offers will be obtained from at least two small business concerns that are competitive in terms of quality and delivery and award will be made at fair market prices. * * *

* * * * *

(f) *Acquisition-Related Dollar Thresholds.* The Federal Acquisition Regulatory Council (FAR Council) has the responsibility of adjusting each acquisition-related dollar threshold on October 1, of each year that is evenly divisible by five. Acquisition-related dollar thresholds are defined as dollar thresholds that are specified in law as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law to the procurement of property or services by an executive agency as determined by the FAR Council. 41 U.S.C. 431a(c). Part 127, Women-Owned Small Business Federal Contract Program, contains acquisition-related dollar thresholds subject to inflationary adjustments. The FAR Council shall publish a notice of the adjusted dollar thresholds in the **Federal Register**. The adjusted dollar thresholds shall take effect on the date of publication.

■ 11. Amend § 127.604 as follows:

■ a. In paragraph (a), revise the second sentence and add a third sentence;

■ b. In the third sentence of paragraph (c)(1) remove the word ''two'' and add in its place the word ''three'';

■ c. Revise the second and third sentences of paragraph (d); and

■ d. Revise paragraph (f)(2)(i).

The revsions and addition read as follows:

§ 127.604 How will SBA process an EDWOSB or WOSB status protest?

(a) *Notice of receipt of protest.* * * * The contracting officer may award the contract after receipt of a protest if the contracting officer determines in writing that an award must be made to protect the public interest. Notwithstanding such a determination, the provisions of paragraph (f) of this section apply to the procurement in question.

* * * * *

(d) *Time period for determination.* * * * If SBA does not issue its determination within the fifteen (15) business day period (or within any extension of that time the contracting officer has granted), the contracting officer may award the contract if he or she determines in writing that there is an immediate need to award the contract and that waiting until SBA makes its determination will be disadvantageous to the Government. Notwithstanding such a determination, the provisions of paragraph (f) of this section apply to the procurement in question. * * *

* * * * *

(f) * * *

(2) * * *

(i) If a contracting officer receives such a determination after contract award, and no OHA appeal has been filed, the contracting officer shall terminate the award.

* * * * *

Dated: October 10, 2011.

Karen G. Mills,

Administrator.

[FR Doc. 2012–467 Filed 1–11–12; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 411

[Docket No. SSA–2011–0034]

RIN 0960–AH34

Mailing of Tickets Under the Ticket to Work Program

AGENCY: Social Security Administration.

ACTION: Interim final rule with request for comments.

SUMMARY: The Social Security Act (Act) states that we *may* issue a Ticket to Work (Ticket) to disabled beneficiaries for participation in the Ticket to Work program (Ticket program). Under our current rules, however, we mail initial Ticket notices to all Ticket-eligible beneficiaries, regardless of whether they are likely to participate in the program, immediately after they begin receiving benefits. We are modifying our rules so that we *may* send a Ticket to eligible disabled beneficiaries. We will inform all newly eligible and current beneficiaries of the availability of the program via routine correspondence. In addition, we will conduct Ticket outreach to those disabled beneficiaries who are most likely to return to work. We will send a Ticket to any eligible disabled beneficiary upon request, regardless of whether we have identified the beneficiary through our outreach efforts. We expect this change will make the Ticket program more effective. This change does not affect Ticket eligibility requirements.

DATES: This interim final rule is effective January 12, 2012.

Comment Date: To ensure that your comments are considered, we must receive them no later than March 12, 2012.

ADDRESSES: You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2011–0034 so that we may associate your comments with the correct regulation.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. Internet: We strongly recommend that you submit your comments via the Internet. Please visit the Federal eRulemaking portal at *http://www.regulations.gov*. Use the Search function to find docket number SSA–2011–0034. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

2. Fax: Fax comments to (410) 966–2830.

3. Mail: Mail your comments to the Office of Regulations, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Desiree Fitzgerald, Office of Retirement and Disability Policy, Office of Employment Support Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–7456. For information on eligibility or filing for benefits, call our national toll-free number, 1–(800) 772–1213 or TTY 1–(800) 325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION: The Ticket program has expanded the universe of service providers available to individuals who are entitled to Social Security benefits based on disability or Supplemental Security Income (SSI) benefits based on disability or blindness. Congress established the Ticket program in the Ticket to Work and Work Incentives Improvement Act of 1999 to provide disability beneficiaries a choice in obtaining the services and technology that they need in order to find, secure, and maintain employment.[1] Congress explicitly recognized that, while many people who receive disability benefits want to work and may have the potential to work, they face a number of significant barriers that may prevent them from doing so.[2] Additionally, Congress recognized that the savings to the Social Security Trust Funds and to the Treasury would be significant even if only a small percentage of current Social Security disability beneficiaries and SSI recipients were to cease receiving benefits as a result of employment.[3]

Under the Ticket program, we may issue Tickets to eligible Social Security disability beneficiaries and disabled or blind SSI recipients. The Ticket program provides these beneficiaries with a Ticket that they may use to obtain vocational rehabilitation services, employment services, and other support services from an employment network or from a State vocational rehabilitation agency. This support allows these individuals to enter into and retain employment and reduces dependency on Social Security and SSI cash benefits.

Although not required by the Act, our current rules state that we will mail Tickets to all Ticket-eligible beneficiaries.[4] We currently mail Tickets shortly after we award a disability or blindness-related benefit, regardless of the beneficiary's likelihood to participate in the program immediately after they begin receiving benefits.

As of October 1, 2011, we issued about 12.5 million active Tickets to eligible beneficiaries since revising our Ticket to Work regulations in 2008.[5] However, of those 12.5 million Tickets, only 286,348 are assigned or in use.[6] We expend significant financial and administrative resources to mail the Tickets as required by our current rules, over ninety-seven percent of which beneficiaries never use. We will save about one million dollars each year in print and mail costs by informing newly eligible disabled beneficiaries about their eligibility for the Ticket program in their award letters instead of sending a separate piece of mail containing a ticket.

Participation rates in the Ticket program vary with the characteristics of eligible beneficiaries.[7] A recent Ticket to Work program study, conducted by an outside research firm, assessed which characteristics are most predictive of Ticket assignment among new beneficiaries—the group to which we currently mail Tickets. According to the study, characteristics such as age and months since earliest disability onset are strong predictors of participation in the Ticket program.[8]

[1] Public Law 106–170.

[2] Sec. 2(a), Public Law 106–170.

[3] Sec. 2(a)(12), Public Law 106–170.

[4] Section 1148(b)(1) of the Act states that ''the Commissioner may issue a ticket to disabled beneficiaries for participation in the Program;'' 20 CFR 411.130.

[5] *41st Month Report: Impact of Regulatory Changes (5/1/08–10/1/11).* Available at: *http://www.socialsecurity.gov/work/enpayments_stats.html.*

[6] Id.

[7] See Stapleton, David, et al., *Ticket to Work at the Crossroads: A Solid Foundation with an Uncertain Future 30* (September, 2008). Available at: *http://www.socialsecurity.gov/disabilityresearch/ttw4/TTW_Rpt4_508_vol1r.pdf.*

[8] Altshuler, Norma, et al., *Provider Experiences Under the Revised Ticket to Work Regulations*

In our experience, it is unnecessary to mail Tickets to all beneficiaries, especially when they are not likely to participate in the program at that point in time. Because it is unlikely that some beneficiaries will need or be able to use a Ticket, we do not believe that it is the best use of our limited resources to continue mailing Tickets to every Ticket-eligible beneficiary. Instead, we will use more focused and cost-effective methods to publicize the Ticket program.

We are modifying § 411.130 so that we *may* send a Ticket to an eligible beneficiary. Removing the current requirement that we must send Tickets to all eligible beneficiaries, regardless of the likelihood that the beneficiary will ever use the Ticket, will allow us to better focus our limited resources on those beneficiaries who are most likely to return to work. We are also modifying § 411.130 to make clear that Ticket-eligible beneficiaries may receive a Ticket upon request.

We will inform newly eligible disabled beneficiaries about their eligibility for the Ticket program in their award letters instead of sending a separate piece of mail containing a Ticket. To request a Ticket and participate in the Ticket program, a beneficiary can contact the Ticket Call Center toll free at 1–(866) 968–7842 or TTY 1–(866) 833–2967.

We will remind current disabled beneficiaries of the availability of the program in their annual Cost of Living Adjustment notices and in other letters that they receive from us. We also expect to expand our current outreach efforts in the near future to increase awareness of the Ticket program by calling beneficiaries who are the ''most likely to return to work'' to tell them about the program. Information bulletins informing claimants and beneficiaries of the availability of employment support services, including the Ticket program, will also be available at our field offices.

The changes we are making in these rules will also help make our rules more internally consistent. A ''Ticket'' is defined in our rules at § 411.115 as ''a document described in § 411.120 which the Commissioner may issue to disabled beneficiaries for participation in the Ticket to Work program.'' Since we recognize in § 411.115 that we ''may issue'' Tickets to disabled beneficiaries, our revision to § 411.130 will better reflect the definition of a Ticket in § 411.115. In addition, the change we are making here is consistent with the language of section 1148(b)(1) of the Act, which gives us discretion as to the form and manner in which Tickets may be distributed.[9]

Clarity of This Rule

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this interim final rule, we invite your comments on how to make the rules easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rule clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format make the rule easier to understand, e.g. grouping and order of sections, use of headings, paragraphing?

When will we start to use this rule?

We will start to use this rule on the effective date shown under **DATES** earlier in this preamble.

We are also inviting public comment on the changes made by this interim final rule. We will consider any relevant comments we receive. We will publish a final rule to respond to those comments and to make any appropriate changes.

Regulatory Procedures

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 USC 553 when we develop regulations. Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final rule. The APA provides exceptions to its notice and public comment procedures when an agency finds good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest.[10]

We find that good cause exists for proceeding without prior public notice and comment in this instance. As discussed above, the change we are making in this interim final rule will make the Ticket program more effective by allowing us to target our limited resources available for Ticket outreach to those disabled beneficiaries who are more likely to return to work with the employment supports provided under the Ticket program. This change will allow us to better utilize our scarce administrative resources in light of the current budgetary constraints under which we are operating. Accordingly, we find that prior public comment would be contrary to the public interest in this instance. However, we are inviting public comment on the rule and will consider any relevant comments we receive within sixty days of its publication.

In addition, for the reasons cited above, we also find good cause for dispensing with the thirty-day delay in the effective date of this rule.[11] Since the change we are making to this rule will make the Ticket program more effective and allow us to better utilize our scarce administrative resources, we find that it is contrary to the public interest to delay the effective date of our rule. Accordingly, we are making this rule effective upon publication.

Executive Order 12866 as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this interim final rule meets the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB reviewed it.

Regulatory Flexibility Act

We certify that this interim final rule will not have a significant economic impact on a substantial number of small entities because it only affects individuals. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

This interim final rule imposes no reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security Disability Insurance; 96.006 Supplemental Security Income; 96.008)

List of Subjects in 20 CFR Part 411

Administrative practice and procedure, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Social

(September, 2011). Available at: *http://opdr.ssahost.ba.ssa.gov/documents/Provider%20Experience%20Under%20New%20TTW%20Regulations%20September%202011.pdf.*

[9] Public Law 106–170.

[10] 5 U.S.C. 553(b)(B).

[11] *See* 5 U.S.C. 553(d)(3).

Security, Supplemental Security Income (SSI), Vocational rehabilitation.

Michael J. Astrue,

Commissioner of Social Security.

For the reasons set out in the preamble, we amend 20 CFR chapter III, part 411, subpart B as set forth below:

PART 411—THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM

■ 1. The authority citation for part 411 continues to read as follows:

Authority: Secs. 702(a)(5) and 1148 of the Social Security Act (42 U.S.C. 902(a)(5) and 1320b–19); sec. 101(b)–(e), Public Law 106–170, 113 Stat. 1860, 1873 (42 U.S.C. 1320b–19 note).

Subpart B—[Amended]

■ 2. Revise § 411.130 to read as follows:

§ 411.130 How will we distribute tickets under the Ticket to Work program?

We may send you a ticket if you are eligible to receive one under § 411.125. All Ticket-eligible beneficiaries may receive a Ticket upon request.

[FR Doc. 2012–405 Filed 1–11–12; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 501 and 590

Reporting, Procedures and Penalties Regulations; Transnational Criminal Organizations Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is issuing regulations to implement Executive Order 13581 of July 24, 2011 (''Blocking Property of Transnational Criminal Organizations''). OFAC intends to supplement this part 590 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy. OFAC also is amending other regulations to clarify the availability of general licenses on OFAC's Web site.

DATES: *Effective Date:* January 12, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Sanctions, Compliance & Evaluations, tel.: (202) 622–2490, Assistant Director for Licensing, tel.: (202) 622–2480, Assistant Director for Policy, tel.: (202) 622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: (202) 622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: (202) 622–0077.

Background

On July 24, 2011, the President issued Executive Order 13581 (76 FR 44757, July 27, 2011) (''E.O. 13581''), invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and the National Emergencies Act (50 U.S.C. 1601 *et seq.*).

The Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is issuing the Transnational Criminal Organizations Sanctions Regulations, 31 CFR part 590 (the ''Regulations''), to implement E.O. 13581, pursuant to authorities delegated to the Secretary of the Treasury in E.O. 13581. A copy of E.O. 13581 appears in appendix A to this part.

The Regulations are being published in abbreviated form at this time for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part 590 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy. The appendix to the Regulations will be removed when OFAC supplements this part with a more comprehensive set of regulations.

The Reporting, Procedures and Penalties Regulations, 31 CFR part 501, set forth standard reporting and recordkeeping requirements and license application and other procedures relevant to the economic sanctions programs administered by OFAC. OFAC is updating the regulation that describes general licenses to account for the availability of such licenses on OFAC's Web site.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 of September 30, 1993, and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501. Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects

31 CFR Part 501

Administrative practice and procedure, Banks, Banking, Blocking of assets, Foreign trade, Reporting and recordkeeping requirements.

31 CFR Part 590

Administrative practice and procedure, Banking, Banks, Blocking of assets, Brokers, Credit, Foreign trade, Investments, Loans, Securities, Services, Transnational Criminal Organizations.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR Chapter V as follows:

PART 501—REPORTING, PROCEDURES AND PENALTIES REGULATIONS

■ 1. The authority citation for part 501 continues to read as follows:

Authority: 8 U.S.C. 1189; 18 U.S.C. 2332d, 2339B; 19 U.S.C. 3901–3913; 21 U.S.C. 1901–1908; 22 U.S.C. 287c; 22 U.S.C. 2370(a), 6009, 6032, 7205; 28 U.S.C. 2461 note; 31 U.S.C. 321(b); 50 U.S.C. 1701–1706; 50 U.S.C. App. 1–44.

Subpart E—Procedures

■ 2. Revise the second sentence of paragraph (a) of § 501.801 to read as follows:

§ 501.801 Licensing.

(a) *General Licenses.* * * * General licenses are set forth in subpart E of each part contained in this chapter, and they also may be available through the following page on OFAC's Web site: *http://www.treasury.gov/resource-center/sanctions/programs/Pages/Programs.aspx.* * * *

■ 3. Add part 590 to read as follows:

PART 590—TRANSNATIONAL CRIMINAL ORGANIZATIONS SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Subpart B—Prohibitions

Subpart C—General Definitions

Subpart D—Interpretations

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

Subpart F—[Reserved]

Subpart G—[Reserved]

Subpart H—Procedures

Subpart I—Paperwork Reduction Act

Appendix A to Part 590—Executive Order 13581 of July 24, 2011

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13581, 76 FR 44757, July 27, 2011.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 590.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Note to § 590.101: This part has been published in abbreviated form for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.

Subpart B—Prohibitions

§ 590.201 Prohibited transactions.

All transactions prohibited pursuant to Executive Order 13581 of July 24, 2011 (76 FR 44757, July 27, 2011) are also prohibited pursuant to this part.

Note 1 to § 590.201: The names of persons listed in or designated pursuant to Executive Order 13581, whose property and interests in property therefore are blocked pursuant to this section, are published in the **Federal Register** and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[TCO].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *www.treasury.gov/sdn.* Additional information pertaining to the SDN List can be found in Appendix A to this chapter. See § 590.406 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section.

Note 2 to § 590.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the **Federal Register** and incorporated into the SDN List with the identifier ''[BPI–TCO].''

Note 3 to § 590.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this section.

§ 590.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 590.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 590.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, Executive Order 13581, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be

deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d) of § 590.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 590.201.

§ 590.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (e) or (f) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 590.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 590.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraphs (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 590.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 590.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

Subpart C—General Definitions

§ 590.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 590.201 held in the name of a person whose property and interests in property are blocked pursuant to § 590.201, or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

Note to § 590.301: See § 590.406 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 590.201.

§ 590.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person listed in the Annex to Executive Order 13581, 12:01 a.m. eastern daylight time, July 25, 2011; or

(b) With respect to a person whose property and interests in property are otherwise blocked pursuant to Executive Order 13581, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 590.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 590.304 [Reserved]

§ 590.305 [Reserved]

§ 590.306 Interest.

Except as otherwise provided in this part, the term *interest,* when used with respect to property (*e.g.,* ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 590.307 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

Note to § 590.307: See § 501.801 of this chapter on licensing procedures.

§ 590.308 Person.

The term *person* means an individual or entity.

§ 590.309 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 590.310 [Reserved]

§ 590.311 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, or filing of, or levy of or under, any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 590.312 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 590.313 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, or commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 590.314 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 590.401 [Reserved]

§ 590.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 590.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 590.201, unless there exists in the property another interest that is blocked pursuant to § 590.201, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 590.201, such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 590.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 590.201; or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 590.405 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether

by a U.S. bank or other U.S. person, is a prohibited transfer under § 590.201 if effected after the effective date.

§ 590.406 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 590.201 has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 590.201, regardless of whether the entity itself is listed in the Annex or designated pursuant to Executive Order 13581.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 590.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the following page on OFAC's Web site: *http://www.treasury.gov/resource-center/sanctions/programs/pages/tco.aspx.*

§ 590.502 [Reserved]

§ 590.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 590.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 590.201 has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note to § 590.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 590.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 590.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, Internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 590.506 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 590.201 is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(4) Representation of persons before any U.S. federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 590.201, not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 590.201 is prohibited unless licensed pursuant to this part.

§ 590.507 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 590.201 is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart F—[Reserved]

Subpart G—[Reserved]

Subpart H—Procedures

§ 590.801 [Reserved]

§ 590.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13581 of July 24, 2011 (76 FR 44757, July 27, 2011), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 590.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless it displays a valid control number assigned by OMB.

Appendix A to Part 590—Executive Order 13581 of July 24, 2011

EXECUTIVE ORDER

* * * * *

Blocking Property of Transnational Criminal Organizations

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.) (NEA), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, find that the activities of significant transnational criminal organizations, such as those listed in the Annex to this order, have reached such scope and gravity that they threaten the stability of international political and economic systems.

Such organizations are becoming increasingly sophisticated and dangerous to the United States; they are increasingly entrenched in the operations of foreign governments and the international financial system, thereby weakening democratic institutions, degrading the rule of law, and undermining economic markets. These organizations facilitate and aggravate violent civil conflicts and increasingly facilitate the activities of other dangerous persons. I therefore determine that significant transnational criminal organizations constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.

Accordingly, I hereby order:

Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any overseas branch, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) the persons listed in the Annex to this order and

(ii) any person determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State:

(A) to be a foreign person that constitutes a significant transnational criminal organization;

(B) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property and interests in property are blocked pursuant to this order; or

(C) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) I hereby determine that the making of donations of the types of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by subsection (a) of this section.

(c) The prohibitions in subsection (a) of this section include, but are not limited to:

(i) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(ii) the receipt of any contribution or provision of funds, goods, or services from any such person.

(d) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order.

Sec. 2. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. For the purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) the term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States;

(d) the term ''foreign person'' means any citizen or national of a foreign state, or any entity organized under the laws of a foreign state or existing in a foreign state, including any such individual or entity who is also a United States person; and

(e) the term ''significant transnational criminal organization'' means a group of persons, such as those listed in the Annex to this order, that includes one or more foreign persons; that engages in an ongoing pattern of serious criminal activity involving the jurisdictions of at least two foreign states; and that threatens the national security, foreign policy, or economy of the United States.

Sec. 4. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render these measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to section 1(a) of this order.

Sec. 5. The Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 6. The Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, is hereby authorized to submit the recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 7. The Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, is hereby authorized to determine that circumstances no longer warrant the blocking of the property and interests in property of a person listed in the Annex to this order, and to take necessary action to give effect to that determination.

Sec. 8. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 9. This order is effective at 12:01 a.m. eastern daylight time on July 25, 2011.

Barack Obama

THE WHITE HOUSE,
July 24, 2011.

ANNEX

Entities

1. THE BROTHERS' CIRCLE (f.k.a. FAMILY OF ELEVEN; f.k.a. THE TWENTY)
2. CAMORRA
3. YAKUZA (a.k.a. BORYOKUDAN; a.k.a. GOKUDO)
4. LOS ZETAS

Dated: January 3, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

Approved: January 3, 2012.

David S. Cohen,

Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

[FR Doc. 2012–156 Filed 1–11–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–1115]

RIN 1625–AA00

Safety Zone; Matlacha Bridge Construction, Matlacha Pass, Matlacha, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of Matlacha Pass in the vicinity of the Matlacha Bridge in Matlacha, Florida. The safety zone will be enforced during construction of the Matlacha Bridge from Thursday, December 15, 2011 until Sunday, January 15, 2012. The safety zone is necessary to protect life and property on navigable waters of the United States during the Matlacha Bridge construction. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port St. Petersburg or a designated representative.

DATES: This rule is effective in the CFR on January 12, 2012 until 7 p.m. January 15, 2012. This rule is effective with actual notice for purposes of enforcement from 7 a.m. December 15, 2011, until 7 p.m. January 15, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–1115 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–1115 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or email Marine Science Technician Second Class Chad. R. Griffiths, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228–2191, email *D07-SMB-Tampa-WWM@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive notice of this stage of the Matlacha Bridge construction until November 18, 2011. As a result, the Coast Guard did not have sufficient time to publish an NPRM and to receive public comments prior to construction operations to install supports for the new bascule leaf on the Matlacha Bridge. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize potential danger to the public during the bridge construction.

For the same reason discussed above, under 5 U.S.C. 553(d)(3) the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to protect life and property on navigable waters of the United States during the Matlacha Bridge construction.

Discussion of Rule

From Thursday, December 15, 2011 until Sunday, January 15, 2012, Archer Western Contractors, Ltd., Inc. will be installing a new fender system on the Matlacha Bridge in Matlacha, Florida. The fender installation will require a barge to be placed between the fender system at the Matlacha Bridge, thereby closing the Matlacha Pass channel to marine traffic. The construction poses a danger to mariners located in or transiting the area.

The safety zone encompasses certain waters of Matlacha Pass in the vicinity of the Matlacha Bridge in Matlacha, Florida. The safety zone will be enforced daily from 7 a.m. until 7 p.m. from December 15, 2011 until January 15, 2012.

Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port St. Petersburg or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact the Captain of the Port St. Petersburg by telephone at (727) 824–7524, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

Executive Orders 13563, Improving Regulation and Regulatory Review, and 12866, Regulatory Planning and Review, direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this regulation under Executive Order 12866.

The economic impact of this rule is not significant for the following reasons: (1) The safety zone will only be enforced for 12 hours per day; (2) vessel traffic in the area is expected to be minimal during the enforcement

periods; (3) the barge placed in the main channel will be able to move with a 12 hour advance notice; (4) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port St. Petersburg or a designated representative, they may operate in the surrounding area during the enforcement periods; (5) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone during the enforcement periods if authorized by the Captain of the Port St. Petersburg or a designated representative; and (6) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of Matlacha Pass encompassed within the safety zone between 7 a.m. and 7 p.m. from December 15, 2011 until January 15, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–(888) 734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human

environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary safety zone that will be enforced 12 hours per day during a 30 day period. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–1115 to read as follows:

§ 165.T07–1115 Safety Zone; Matlacha Bridge Construction, Matlacha Pass, Matlacha, FL.

(a) *Regulated Area.* The following regulated area is a safety zone. All waters of Matlacha Pass within a 100 yard radius of position 26°37′57.6″ N, 82°04′04.8″ W. All coordinates are North American Datum 1983.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port St. Petersburg in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port St. Petersburg or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port St. Petersburg by telephone at (727) 824–7524, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement.* This rule is enforced daily from 7 a.m. until 7 p.m. from December 15, 2011, until January 15, 2012.

Dated: December 12, 2011.

S.L. Dickinson,

Captain, U.S. Coast Guard Captain of the Port.

[FR Doc. 2012–403 Filed 1–11–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AO10

Vocational Rehabilitation and Employment Program—Changes to Subsistence Allowance

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as final, without change, the interim final rule amending regulations of the Department of Veterans Affairs (VA) to reflect changes made by the Post-9/11 Veterans Educational Assistance Improvements Act of 2010, effective August 1, 2011, that affect payment of vocational rehabilitation benefits for certain service-disabled veterans. Pursuant to these changes, a veteran, who is eligible for a subsistence allowance under chapter 31 of title 38, United States Code, and educational assistance under chapter 33 of title 38, United States Code, may participate in a rehabilitation program under chapter 31 and elect to receive a payment equal in amount to an applicable military housing allowance payable under title 37, United States Code, instead of the regular subsistence allowance under chapter 31. In addition, payments of subsistence allowances during periods between school terms are discontinued, and payments during periods of temporary school closings are modified.

DATES: *Effective Date:* This final rule is effective January 12, 2012.

FOR FURTHER INFORMATION CONTACT: Alvin Bauman, Senior Policy Analyst, Vocational Rehabilitation and Employment Service (28), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, (202) 461–9600 (not a toll-free number).

SUPPLEMENTARY INFORMATION: In an interim final rule published in the **Federal Register** on August 1, 2011 (76 FR 45697), VA amended §§ 21.260 and 21.264 to allow a veteran who is eligible for a chapter 31 subsistence allowance and chapter 33 educational assistance to participate in a chapter 31 rehabilitation program and elect a subsistence allowance in an alternate amount, which we referred to as the *Post-9/11 subsistence allowance,* in lieu of the amount of the regular chapter 31 subsistence allowance provided for in § 21.260(b). Among other things, we also amended § 21.270 to discontinue the payment of subsistence allowance for periods between school terms.

We provided a 30-day comment period that ended August 31, 2011. No comments were received. Based on the rationale set forth in the interim final rule, we adopt the interim final rule as a final rule without change.

Administrative Procedure Act

This document affirms the amendments made by the interim final rule that is already in effect. The Secretary of Veterans Affairs concluded that, under 5 U.S.C. 553(b)(3)(B) and (d)(3), there was good cause to dispense with advance public notice and opportunity to comment on this rule and good cause to publish the interim final rule with an immediate effective date. The Secretary found that it was impracticable and contrary to the public interest to delay this regulation for the purpose of soliciting prior public comment. Sections 205 and 206 of Public Law 111–377 required that certain changes to the rehabilitation program take effect on August 1, 2011. This interim final rule was necessary to implement by August 1, 2011, the statutory changes as they related to chapter 31 subsistence allowance. For instance, Public Law 111–377 did not address how the alternate rate of subsistence allowance would be calculated in different situations. Allowing veterans to elect an alternate rate of subsistence allowance ensured that such veterans would receive the supportive services under chapter 31 to assist them in the transition from military to civilian careers. Because eligible veterans could begin to make the election on August 1, 2011, it was important to have procedures in place by this date to allow veterans to receive the alternate rate of subsistence allowance authorized under the law as

soon as they were able. For these reasons, the Secretary of Veterans Affairs issued this rule as an interim final rule.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule does not contain any collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory action will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This regulatory action will affect individuals and will not affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this regulatory action is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 13563 and 12866

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined and it has been determined to be a significant regulatory action under Executive Order 12866.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program that would be affected by this final rule is 64.116, Vocational Rehabilitation for Disabled Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on November 1, 2011 for publication.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Education, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Dated: January 9, 2012.

Robert C. McFetridge,

Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

■ Accordingly, the interim final rule amending 38 CFR part 21, which was published at 76 FR 45697 on August 1, 2011, is adopted as a final rule without change.

[FR Doc. 2012–452 Filed 1–11–12; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2008–0638; FRL–9613–7]

Approval and Disapproval and Promulgation of Implementation Plans; Texas; Infrastructure and Interstate Transport Requirements for the 1997 Ozone and the 1997 and 2006 $PM_{2.5}$ NAAQS

Correction

In rule document 2011–33253 appearing on pages 81371–81393 in the issue of Wednesday, December 28, 2011, make the following corrections:

§ 52.270 [Corrected]

1. On page 81392, in § 52.270(c), in the table appearing at the bottom of the page, in the entry under the column titled ''EPA approval date'', ''12/28/2012'' should read ''12/28/2011''.

2. On page 81393, in §§ 52.270(c) and (e), in both tables appearing on this page, in the two entries under the columns titled ''EPA approval date'', ''12/28/2012'' should read ''12/28/2011''.

[FR Doc. C1–2011–33253 Filed 1–11–12; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2011–0849–201153(a); FRL–9617–2]

Approval and Promulgation of Implementation Plans; Georgia; Rome; Fine Particulate Matter 2002 Base Year Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the fine particulate matter ($PM_{2.5}$) 2002 base year emissions inventory portion of the State Implementation Plan (SIP) revision submitted by the State of Georgia on October 27, 2009. The emissions inventory is part of the Rome, Georgia (hereafter referred to as ''the Rome Area'' or ''Area''), $PM_{2.5}$ attainment demonstration that was submitted for the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

DATES: This direct final rule is effective March 12, 2012 without further notice, unless EPA receives adverse comment

by February 13, 2012. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2011–0849, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: benjamin.lynorae@epa.gov.*

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2011–0849,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2011–0849. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 18, 1997 (62 FR 36852), EPA established an annual $PM_{2.5}$ NAAQS at 15.0 micrograms per cubic meter (μg/m^3) based on a 3-year average of annual mean $PM_{2.5}$ concentrations. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 annual $PM_{2.5}$ NAAQS based upon air quality monitoring data for calendar years 2001–2003. These designations became effective on April 5, 2005. The Rome Area (which is comprised of Floyd County in its entirety) was designated nonattainment for the 1997 annual $PM_{2.5}$ NAAQS. *See* title 40 CFR 81.311.

Designation of an area as nonattainment starts the process for a state to develop and submit to EPA a SIP under title 1, part D of the CAA. This SIP must include, among other elements, a demonstration of how the NAAQS will be attained in the nonattainment area as expeditiously as practicable but no later than the date required by the CAA. Under CAA section 172(b), a state has up to three years after an area's designation as nonattainment to submit its SIP to EPA. For the 1997 $PM_{2.5}$ NAAQS, these SIPs were due April 5, 2008. See 40 CFR 51.1002(a).

On October 27, 2009, Georgia submitted an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, a 2002 base year emissions inventory and other planning SIP revisions related to attainment of the 1997 annual $PM_{2.5}$ NAAQS in the Rome Area. Subsequently, on April 5, 2011 (76 FR 18650), EPA determined that the Rome Area attained the 1997 annual average $PM_{2.5}$ NAAQS. The determination of attainment was based upon complete, quality-assured and certified ambient air monitoring data for the 2007–2009 period, showing that the Area had monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS. The requirements for the Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard were suspended as a result of the determination of attainment, so long as the Area continues to attain the 1997 annual $PM_{2.5}$ NAAQS. *See* 40 CFR 51.1004(c).

On June 29, 2011, Georgia withdrew [1] the Rome Area's attainment demonstration as allowed by 40 CFR 51.1004(c); however, such withdrawal does not suspend the emissions inventory requirement found in CAA section 172(c)(3). Section 172(c)(3) of the CAA requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. EPA is now approving the emissions inventory portion of the SIP revision submitted by the State of

[1] Per phone conversation between Lynorae Benjamin (EPA Region 4) and Jimmy Johnson (Georgia Department of Natural Resources) on October 17, 2011, the withdrawal notice did not include the emissions inventory portion of the submittal.

Georgia on October 27, 2009, as required by section 172(c)(3).

II. Analysis of State's Submittal

As discussed above, section 172(c)(3) of the CAA requires areas to submit a comprehensive, accurate and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area. Georgia selected 2002 as base year for the emissions inventory per 40 CFR 51.1008(b). Emissions contained in the Rome attainment plan cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. A detailed discussion of the emissions inventory development can be found in Appendix H of the Georgia submittal; a summary is provided below.

The tables below provide a summary of the annual 2002 emissions of nitrogen oxides (NOx), sulfur dioxide (SO_2), and $PM_{2.5}$.

TABLE 1—2002 ANNUAL EMISSIONS FOR THE ROME AREA

[Tons]

County	Point Sources		
	NO_X	SO_2	$PM_{2.5}$
Floyd	13,053.3	35,245.1	651.0
	Non-Road Sources		
Floyd	1,100.6	81.2	60.9
	Area Sources		
Floyd	622.1	979.5	1,378.5
	Mobile Sources		
Floyd	3,058.7	128.1	49.4

The 172(c)(3) emissions inventory is developed by the incorporation of data from multiple sources and data. States were required to develop and submit to EPA a triennial emissions inventory according to the Consolidated Emissions Reporting Rule for all source categories (i.e., point, area, nonroad mobile and on-road mobile). This inventory often forms the basis of data that are updated with more recent information and data that also is used in their attainment demonstration modeling inventory. Such was the case in the development of the 2002 emissions inventory that was submitted in the state's attainment SIP for this Area. The 2002 emissions inventory was based on data developed with the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) contractors and submitted by the States to the 2002 National Emissions Inventory. Several iterations of the 2002 inventories were developed for the different emissions source categories resulting from revisions and updates to the data. This resulted in the use of version G2 of the updated data to represent the point sources' emissions. Data from many databases, studies and models (e.g., Vehicle Miles Traveled, fuel programs, the NONROAD 2002 model data for commercial marine vessels, locomotives and Clean Air Market Division, etc.) resulted in the inventory submitted in this SIP. The data were developed according to current EPA emissions inventory guidance ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations'' (August 2005) and a quality assurance project plan that was developed through VISTAS and approved by EPA. EPA agrees with the process used to develop this inventory was adequate to meet the requirements of CAA Sec. 172(c)(3) and the implementing regulations.

EPA has reviewed Georgia's emissions inventory and finds that it is adequate for the purposes of meeting section 172(c)(3) emissions inventory requirement. The emissions inventory is approvable because the emissions were developed consistent with the CAA, implementing regulations and EPA guidance for emission inventories.

III. Final Action

EPA is approving the 2002 base year emissions inventory portion of the SIP revision submitted by the State of Georgia on October 27, 2009. This action is being taken pursuant to section 110 of the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective March 12, 2012 without further notice unless the Agency receives adverse comments by February 13, 2012.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on March 12, 2012 and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under

Executive Order 12866 (58 FR 51735, October 4, 1993);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 12, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 22, 2011.

Gwendolyn Keyes Fleming,

Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L—Georgia

■ 2. Section 52.570(e), is amended by adding a new entry for ''Rome; 1997 Fine Particulate Matter 2002 Base Year Emissions Inventory'' to read as follows:

§ 52.570 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date
* * *	* *	*	* *
28. Rome; 1997 Fine Particulate Matter 2002 Base Year Emissions Inventory.	Floyd County	10/27/2009	1/12/12 [Insert citation of publication].

[FR Doc. 2012–344 Filed 1–11–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 423

[CMS–4131–F2]

RIN 0938–AP64

Medicare Program; Medicare Advantage and Prescription Drug Benefit Programs: Negotiated Pricing and Remaining Revisions; Prescription Drug Benefit Program: Payments to Sponsors of Retiree Prescription Drug Plans

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule implements and finalizes provisions regarding the reporting of gross covered retiree plan-related prescription drug costs (gross retiree costs) and retained rebates by Retiree Drug Subsidy (RDS) sponsors; and the scope of our waiver authority under the Social Security Act (the Act).

DATES: *Effective Date:* These regulations are effective on March 12, 2012.

FOR FURTHER INFORMATION CONTACT:
John Campbell, (410) 786–0542.
Joseph Hefter, (410) 786–5751.
James Slade, (410) 786–1073.

SUPPLEMENTARY INFORMATION:

I. Background

The Balanced Budget Act of 1997 (BBA) (Pub. L. 105–33) established a new ''Part C'' in the Medicare statute (sections 1851 through 1859 of the Social Security Act (the Act)) that established the Medicare+Choice (M+C) program. Under section 1851(a)(1) of the Act, every individual entitled to Medicare Part A and enrolled under Medicare Part B, except for most individuals with end-stage renal disease (ESRD), could elect to receive benefits either through the original Medicare program or an M+C plan, if one was offered where he or she lived.

Subsequently, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) was enacted on December 8, 2003. This legislation established the Medicare prescription drug benefit program (Part D) and made significant revisions to the provisions in Medicare Part C, governing what was renamed the Medicare Advantage (MA) program (formerly Medicare+Choice). The MMA directed that important aspects of the new Medicare prescription drug benefit program under Part D be similar to and coordinated with regulations for the MA program. The MMA also created a subsidy program involving payments to sponsors of Retiree Prescription Drug Programs, or the Retiree Drug Subsidy (RDS) Program. This program allows subsidy payments to sponsors of qualified retiree prescription drug plans for Part D drug costs for individuals who are eligible for, but not enrolled in, a Medicare Part D plan. The MMA also specified that implementation of the prescription drug benefit and revised MA program provisions take place by January 1, 2006. Thus, we published final rules for the MA and Part D prescription drug programs in the January 28, 2005 **Federal Register** (70 FR 4588 through 4741 and 70 FR 4194 through 4585, respectively).

We published a proposed rule on May 16, 2008 (73 FR 28556) that proposed to make the Part D and RDS policies the same with respect to the reporting of negotiated prices and retained rebates. The May 2008 proposed rule would have required that Prescription Drug Benefit Program (Part D) and Retiree Drug Subsidy (RDS) sponsors report the pass-through negotiated prices and included a proposed definition of ''negotiated price'' to be included at § 423.882 that paralleled the definition at § 423.100. The May 2008 proposed rule also proposed to include definitions of ''actually paid,'' ''administrative costs,'' ''allowable retiree costs,'' and ''gross covered retiree plan-related prescription drug costs'' that reflected Part D policy on retained rebates and ''pass-through'' negotiated prices, and proposed to apply the policies to the RDS Program. Thus, our proposed rule would have also required RDS sponsors to report rebates retained by an intermediary contracting organization, such as a pharmacy benefit manager (PBM), that may have been received by an intermediary contracting organization based on the utilization by the RDS sponsor's enrollees, but not passed through to the plan sponsor.

In the January 12, 2009 **Federal Register** (74 FR 1494), we published a final rule with comment period that responded to comments on the May 16, 2008 proposed rule and finalized Part C and Part D regulations from that proposed rule that either were not impacted by Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110–275), which was enacted on July 15, 2008, or that complemented MIPPA provisions. In addition, the final rule with comment period—(1) Deferred finalizing the RDS definition of ''negotiated prices'' and implemented, on an interim final basis, definitions of the other terms that reflected existing RDS policy, but did not reflect the new Part D policy on negotiated prices and retained rebates; (2) solicited public comment on whether we have the authority to adopt different reporting structures for Part D versus the RDS Program; and (3) set forth three theories under which we might have such authority.

Also in the January 12, 2009 **Federal Register**, we published a proposed rule that would make regulatory revisions based on a change in our interpretation of section 1860D–22(b) of the Act. This provision would be interpreted as providing us with the authority to waive or modify requirements that hinder the design of, the offering of, or enrollment in an RDS plan.

II. Provisions of the Rules and Analysis and Response to Public Comments

Based on comments on the May 2008 proposed rule, in our January 12, 2009 final rule with comment period (74 FR 1494), we deferred finalizing the definition of ''negotiated prices'' and implemented, on an interim final basis, definitions of the other terms that reflected existing RDS policy, but did not reflect the new Part D policy on negotiated prices and retained rebates. Stakeholders that commented on the May 2008 proposed rule argued that the majority of RDS sponsors are large employers that are sophisticated purchasers with a great amount of leverage, and are in the best negotiating position to decide which pricing structure is most appropriate for them. Commenters on the May 2008 proposed rule also argued that to extend the Part D policy of requiring the reporting of pass-through prices (and retained rebates) would cause RDS sponsors to leave the program and place retirees in the Medicare Part D program.

We also at that time requested comment on whether we have the authority to adopt different reporting structures for Part D versus the RDS Program, and our final rule with comment period set forth three theories under which we might have such authority. These legal theories are described in detail in our January 12, 2009 final rule with comment period (74 FR 1494, 74 FR 1516, and 74 FR 1519). Although the three legal theories were articulated in connection with our decision to defer finalizing the proposed definition of ''negotiated prices'' in the RDS regulations (which would have tracked the Part D definition at § 423.100), we also stated in the January 12, 2009 final rule with comment period that we believed these three legal theories also could have applicability to

the issue of whether we could adopt a policy for retained rebates that differed between RDS and Part D, and we sought comment on that issue as well.

A. Provisions of the Final Rule With Comment Period

In the January 12, 2009 **Federal Register** (74 FR 1494), we published a final rule with comment period that finalized certain requirements relating to the MA and Part D Programs, and implemented certain requirements for the RDS Program on an interim basis. In the preamble discussion of these interim final regulations, we indicated that we agree with concerns expressed by commenters regarding the application to the RDS program of two Part D policies that were being finalized. We also indicated that the interim final regulations preserve the status quo for the RDS program with respect to these policies while we invited comment on three different legal theories under which we could potentially apply different cost reporting structures between the Part D and RDS Programs. That is, under Part D, sponsors are required to report pass-through pricing and retained rebates, but under the RDS Program, sponsors would be permitted to choose whether or not to report drug costs on a pass-through or lock-in basis, and could choose to report rebates and other price concessions that are retained by a pharmacy benefit management company or other intermediary contracting organization. In addition, the January 2009 proposed rule noted that we were specifically soliciting comments on the possibility of applying one or more of these legal theories.

We received comments from 10 stakeholders on the final rule with comment period. Commenters included advocacy groups representing the insurance industry, and employers and other organizations that sponsor or administer retirement and health benefits; pharmacy benefit managers; a health care consortium; and a consultant.

Commenters generally supported allowing the RDS Program reporting structure to be different from the Part D reporting structure, and commenters generally believed that we have the authority to allow differing reporting structures. In this final rule, based on the comments received both on the interim final portions of the January 12, 2009 final rule with comment period, as well as comments received on the proposed rule published the same day, we are finalizing the RDS language as specified in the January 2009 final rule with comment period (73 FR 1494) (with the correction discussed in section II.C. of this final rule), and the proposed regulatory changes for part 423 subpart J in the January 2009 proposed rule (74 FR 1550). Therefore we are finalizing the definitions of ''actually paid,'' ''administrative costs,'' ''allowable retiree costs,'' ''gross covered retiree plan-related prescription drug costs, or gross retiree costs,'' as they were published in the January 12, 2009 final rule with comment period. We are also finalizing the revision of § 423.888(b)(5)(i) so that it references the term ''gross covered plan-related retiree prescription drug costs,'' which is a term defined in part 423 subpart R, rather than ''gross prescription drug costs,'' which is not. Finally, we are making the one technical change to the definition of ''actually paid'' to make clear that direct and indirect remuneration can be from any source, as opposed to only from manufacturers or pharmacies. (We are also finalizing the regulatory waiver language set out in § 423.458(c) as proposed on the same day in the January 2009 proposed rule, as discussed in this section.)

While we believe the Part D and RDS Programs are mutually exclusive programs, both are established under Part D–Voluntary Prescription Drug Benefit Program, and implemented under 42 CFR part 423. Therefore, we believe it is best to interpret parallel statutory language in the same manner, but use waiver authority to waive RDS requirements that, if interpreted consistently with parallel Part D requirements, would hinder the offering of, design of, or enrollment in, RDS plans.

1. Legal Theory 1: Interpretation of ''Actually Paid''

In our January 12, 2009 final rule with comment period (74 FR 1516), we articulated our first of three legal theories that would authorize us to adopt a different reporting policy for RDS than for Part D. Under this theory, when an RDS sponsor makes a payment to an entity (such as a PBM) that includes amounts for Part D drug ingredient and dispensing costs and amounts to manage the sponsor's drug benefit plan, the amount of that payment represents the ''costs that are actually paid by the sponsor'' for purposes of calculating the subsidy. Under this argument, we would calculate the subsidy payment based on the RDS sponsor's payment to the PBM, excluding discounts, chargebacks, and average percentage rebates. A problem with this theory is that it would arguably read out of the statute the phrase ''for the portion of the retiree's gross covered retiree plan-related prescription drug costs'' because the amount actually paid could include administrative costs.

Comment: Several commenters indicated that they view the Part D and RDS programs as mutually exclusive programs and that, as a result, we could interpret statutory provisions governing the two programs differently, even if the statutory language in the two provisions were the same. One commenter stated that based on Congressional intent it did not believe policy changes in Part D need to be in lockstep with other programs. One commenter specifically pointed out that the term ''administrative costs'' does not have to be interpreted in the same manner between the Part D and RDS Programs. Another commenter indicated that, in light of fact that section 1860D–22 of the Act is titled ''Special Rules for Employer-Sponsored Programs,'' the MMA intended special treatment for retiree plans compared to Part D Plans.

Response: We agree that the Part D program and the RDS program are different programs with different purposes, and as such, merit different treatment when appropriate to serve those different purposes. We also agree that the heading for section 1860D–22 of the Act implies that the RDS program merits special treatment. That said, we also believe that because the relevant provision uses the same statutory language in both programs to describe program costs, we should interpret the language consistently. Given these considerations, as described in further detail later in this section, we will use our waiver authority under section 1860D–22(b) of the Act to waive or modify the RDS statutory requirements that would otherwise require that RDS sponsors report costs in the same manner as Part D sponsors.

Comment: A commenter contended that the RDS sponsor incurs integrated costs that are directly related to the drug benefit management services necessary for the plan's operation and therefore they should be considered costs ''actually paid.'' Another commenter believes that the ''actually paid'' theory is not very strong because it reads out of the statute the prohibition on including administrative costs when determining a retiree's ''allowable retiree costs.'' Another commenter believed that if CMS views costs a sponsor pays to a PBM under lock-in as ''drug costs incurred to purchase or reimburse the purchase of Part D drugs,'' and not as administrative costs, the prohibition on including administrative costs would not be read out of the statute. One commenter stated that the same term can be interpreted

differently for different programs and that courts give deference to an agency's reasonable interpretation of a statutory term. Another commenter believes that ''actually paid'' means the lock-in price rather than the pass-through price.

Response: We appreciate the comments on this issue. Based on the totality of the comments on our final rule with comment and proposed rule, however, we have determined that the best approach is to adopt legal theory 3, discussed in further detail below. Such an approach will permit us to impose reporting requirements on RDS sponsors that diverge from those under Part D without having to interpret parallel language in two different sections of the Part D statute (namely, sections 1860D–15 and 1860D–22 of the Act) inconsistently. Under the approach we are adopting, when an RDS sponsor makes a payment to an entity (such as a PBM) that includes amounts for Part D ingredient and dispensing costs and amounts to manage the sponsor's drug benefit plan, the total amount of the payment can be used for purposes of calculating the subsidy; otherwise referred to as ''lock-in'' pricing. This lock-in amount paid will be sufficient for us to calculate the subsidy payment, excluding discounts, chargebacks, and average percentage rebates. Under this approach, RDS sponsors can choose to report either the lock-in or the pass-through price for reporting drug costs for purposes of subsidy payments (and can choose to report retained rebates).

Comment: One commenter supported applying the Part D negotiated price definition to the RDS Program, but asked that adequate time be allowed to implement the changes needed to report costs based on pass-through, because the terms of its contracts with PBMs, and, in turn, the PBMs' contracts with pharmacies and other providers, may need to be changed to accommodate the new reporting requirements. Most other commenters supported the existing RDS negotiated price policy, which allows an RDS sponsor to report either the lock-in or pass-through price, because it will promote continued participation of employers.

Response: For the reasons described later in this preamble, we are not adopting a definition of negotiated prices for the RDS program. Thus, the Part D policy with respect to the use of pass-through negotiated prices does not apply to the RDS program.

2. Legal Theory 2: Prohibition on Interference With Benefit Design of Retiree Drug Coverage

The second legal theory on which we invited public comment was the theory that the RDS statute prohibits CMS from interfering in the benefit design of retiree drug coverage, and that requiring use of the ''pass-through'' methodology to report drug costs would interfere with the benefit design of qualified retiree prescription drug plans.

Section 1860D–22(a)(6)(D) of the Act provides that nothing in the RDS statute shall be construed as ''preventing employers to provide for flexibility in benefit design so long as the actuarial equivalence requirement is met.'' Under this legal theory, requiring reporting of the pass-through price (and retained rebates) would be administratively burdensome, create an incentive for employers to redesign their RDS plans and their contractual arrangements with PBMs, and perhaps encourage employers to opt out of the RDS Program entirely.

This argument rests on the assumption that—(1) contractual arrangements between an RDS sponsor and a PBM are ''benefit design[s]''; and (2) requiring an RDS sponsor to report the pass-through price for purposes of the subsidy would ''prevent'' employers from providing flexibility in those benefit designs. Arguably, section 1860D–22(a)(6)(D) of the Act is most reasonably interpreted to prohibit us from mandating a certain benefit package in retiree drug plans, and not to prohibit us from imposing requirements that relate only to reporting costs to us. The provision's context suggests that Congress was concerned with the benefit design of a retiree drug plan itself, and not with the relationship between an RDS sponsor and its contractors.

Comment: We received several comments in favor of our adopting legal theory 2. Several commenters noted that imposing Part D reporting requirements on the RDS program would reduce sponsors' flexibility in plan design, either directly or as a result of having to undertake contract modifications. One commenter stated that to require the Part D reporting structure for the RDS Program would alter the underpinnings of employer plan operations and result in RDS sponsors' modifying their plan benefits, because cost assumptions for prescriptions filled at a pharmacy would no longer be fixed. The commenter stated its belief that this cost variability, in turn, would likely result in changes in cost-sharing and could constrain RDS sponsors' flexibility in benefit design. Other commenters believe that requiring reporting of pass-through prices would discourage RDS sponsors from offering retiree drug coverage, which would push these retirees into Part D. Commenters also stated that requiring pass-through reporting would require considerable retooling of information systems.

Response: We appreciate the comments about the effect of the Part D reporting requirements on RDS sponsors. Based on the comments, we agree that imposing the Part D reporting requirements on RDS sponsors could constrain plan flexibility and ultimately reduce the number of RDS plans available to Part D eligible individuals. In other words, these requirements could hinder the offering of, design of, or enrollment in such plans. Although we are not foreclosing the possibility that we could interpret section 1860D–22(a)(6) of the Act in the manner described in our final rule with comment, we do not believe, given our decision to adopt legal theory 3, that it is necessary to adopt legal theory 2 at this time. Thus, using our waiver authority under 1860D–22(b) of the Act, we will allow an RDS sponsor to report either the lock-in or pass-through prices (and to choose whether or not to report retained rebates). We believe this is the most prudent approach because it will help keep Part D eligible individuals in health plans with which they are satisfied.

3. Legal Theory 3: Change in Interpretation of Waiver Authority

The third legal theory on which we invited public comment involved a change in our interpretation of waiver authority in section 1860D–22(b) of the Act, and the use of that authority to modify requirements for RDS sponsors. The waiver authority in section 1860D–22(b) of the Act appears in a section of the Act that is otherwise devoted entirely to provisions that apply to the RDS Program. It provides that employer group waiver provisions in section 1857(i) of the Act (Medicare Part C) apply with respect to ''prescription drug plans in relation to employment based retiree health coverage'' in a manner similar to how they apply to employment-based MA plans. Under ordinary principles of statutory construction, when a term is defined in statute, the definition applies when the same statute employs that term. Thus, the plainest reading of the waiver authority in section 1860D–22(b) of the Act is that it applies only to prescription drug plans (PDPs), and not to qualified retiree prescription drug plans (QRPDP). However, given the fact that this waiver authority appears in a section otherwise devoted to the RDS program, and that the term ''qualified retiree prescription drug plan'' includes the three words, ''prescription drug plan,'' we believed an argument might be made in this case

that the term ''prescription drug plan'' was intended to encompass both a Part D ''prescription drug plan'' and a qualified retiree ''prescription drug plan'' (that is, this waiver authority extends both to PDPs and QRPDPs), as long as the plan is offered ''in relation to employment-based retiree health coverage'' in either case. In the January 12, 2009 proposed rule, we proposed to change the regulations in Subpart J that interpret the waiver authority as applying only to Part D PDPs.

Comment: Some commenters believe that use of the waiver authority is the strongest theory upon which to rely for purposes of permitting diverging reporting requirements in RDS and Part D. Several commenters agreed that the term ''qualified retiree prescription drug plan'' includes the words ''prescription drug plan,'' and therefore the waiver authority applies to RDS sponsors as long as a plan is offered ''in relation to employment based retiree health coverage.'' Several commenters stated that we have the authority to construe the waiver authority to include RDS plans because even though the term ''prescription drug plan'' is defined to include only Part D plans, the phrase ''prescription drug plans in relation to employment based retiree health coverage'' is not, and commenters argue that this phrase could be construed to include RDS plans. Another commenter notes that the statutory definition of a qualified retiree prescription drug plan includes the term ''employment-based retiree health coverage.'' Other commenters believe the term ''prescription drug plan'' can be interpreted differently when used in different contexts, even in the same statute, and that courts will give deference to how the agency defines or interprets a term.

Other commenters expressed concern that the use of the waiver authority to waive a Part D requirement that might hinder the RDS Program is inconsistent with the statutory construct of the waiver authority. One commenter notes that from a policy-perspective, Part D plans are very different from RDS sponsors, and these differences made the commenter uncertain whether waiver authority designed for MA and Part D would apply to the RDS program because we do not have the same type of authority over RDS sponsors as we do over MA organizations and Part D plans.

Response: After consideration of these comments, we agree that we can construe the waiver authority in section 1860D–22(b) of the Act to apply to RDS plans if we read the phrase ''prescription drug plans in relation to employment-based retiree coverage'' as a whole, and interpret it to apply to RDS plans. Under this interpretation, we are authorized to waive requirements that hinder the design of, the offering of, or enrollment in RDS plans. We interpret the term ''gross covered retiree plan-related prescription drug costs,'' as defined in section 1860D–22(a)(3)(C)(ii) of the Act, in a manner consistent with the term ''gross prescription drug costs,'' as defined in section 1860D–15(b)(3) of the Act. That is, we believe that the same terminology used in these statutes must be interpreted the same way. Using waiver authority, however, we are waiving the prohibition on including administrative costs in the calculation of gross retiree costs (at § 423.882 and § 423.888) when an RDS sponsor pays an intermediary contracting organization on a lock-in basis to allow RDS reporting requirements that diverge from Part D requirements (see 74 FR 1549). In other words, we are waiving the requirement that ''gross covered retiree plan-related prescription drug costs'' exclude administrative costs because to require their exclusion from the costs RDS sponsors report to us—whether in the form of pass-through negotiated prices or reporting of retained rebates—would hinder the design of, the offering of, or enrollment in RDS plans. This waiver of the prohibition on including administrative costs in the calculation of gross retiree costs will apply to costs paid on a lock-in basis (and the reporting of retained rebates) because we do not want to interfere with the contracting arrangements between an RDS sponsor and its intermediary contracting organization. Of course, an RDS sponsor may exclude administrative costs from the calculation of gross retiree costs, if it chooses to do so. Therefore, we are not, as commenters suggest, using the waiver authority to waive Part D requirements; rather, we are using the waiver authority to waive RDS requirements that, if interpreted consistently with parallel language in the Part D statute, would require that we apply RDS reporting requirements that similarly parallel Part D requirements.

Regardless of whether an RDS sponsor chooses to report drug costs on a lock-in or pass-through basis, or whether the RDS sponsor reports retained rebates or not, for audit and other oversight purposes RDS sponsors must document the method of reporting drug costs and rebates, and produce the documentation in accordance with § 423.888.

It is important to note that, with this authority, we are waiving only the prohibition on including administrative costs in the calculation of RDS payments, and only to the extent that such costs are included in the payment to the PBM or other intermediate contracting entity, whether as ''lock in'' prices or retained rebates. If RDS sponsors include in their contracts with intermediary contracting organizations specific administrative payments for specific administrative services, such payments could not be included in the calculation of RDS payments. We are not waiving any other RDS requirements, nor are we adopting any waivers for the RDS Program that exist relating to the EGHP Program. The converse is also true; we are not applying waivers for the RDS program to the EGHP program.

If, in the future, we believe that we may need to waive another RDS requirement, we will post a proposal on the RDS public Web site with information on how stakeholders can comment on the proposal, and will allow sufficient time for stakeholders to comment.

Comment: Commenters noted that the definition of ''gross covered prescription drug costs'' is not defined in the RDS statute and that the definition under the Part D statute is limited to Part D.

Response: We believe the commenter is referring to the statutory definition of ''allowable retiree costs'' in section 1860D–22(b)(3)(C)(i) of the Act, which uses the term ''gross covered prescription drug costs,'' instead of the term ''gross covered retiree plan-related prescription drug costs.'' We do not believe this distinction is meaningful in light of section 1860D–22(a)(3) of the Act, which includes the term ''gross covered prescription drug costs,'' but cross-references the definition of ''gross covered retiree plan-related prescription drug costs'' at section 1860D–22(b)(3)(C)(ii) of the Act. However, even if the distinction were meaningful, both terms exclude administrative costs when calculating allowable costs, so this prohibition must be waived for purposes of the regulations we are finalizing in this final rule.

Comment: A commenter argues that if rebates are retained by the PBM then they are not part of the cost of drugs for the RDS sponsor. If such rebates are part of the RDS sponsor's PBM contract they will change the cost paid by the plan and should be reported.

Response: Under the approach we are adopting for the RDS Program with respect to retained rebates, RDS sponsors are not required to report rebates that are retained by the PBM—we are waiving the requirement that such retained rebates be considered administrative costs that must be excluded from gross covered retiree plan-related prescription drug costs. Of

course, if an RDS sponsor chooses to report the retained rebates, the subsidy payment will be adjusted accordingly.

B. Provisions of the Proposed Rule

In the January 12, 2009 **Federal Register** (74 FR 1550), we published a proposed rule that would amend the regulations pertaining to our waiver authority under section 1860D–22(b) of the Act to broaden our interpretation of the waiver authority. The proposed rule would permit the waiver of requirements that hinder the design of, the offering of, or the enrollment in an employer-sponsored group prescription drug plan. In addition, the January 2009 proposed rule (74 FR 1551) noted that we were specifically soliciting comments on the possibility of applying one or more of those legal theories.

One of the legal theories discussed in the interim final rule with comment involves interpreting the waiver authority under section 1860D–22(b) of the Act (which incorporates waiver authority under section 1857(i) of the Act) to authorize us to waive requirements of the RDS statute to permit differences between the RDS and Part D programs with respect to the two policies in question. In our current regulations, however, we have interpreted section 1860D–22(b) of the Act to apply only to Medicare Part D plans, and not RDS plan sponsors. In order for us to change our interpretation of the scope of our waiver authority, therefore, we proposed to revise the regulations to specify that the waiver authority applies to the RDS program.

Thus, to enable us potentially to adopt this legal theory, we published the January 2009 proposed rule to invite public comment on this proposed change. We also noted that after we have reviewed the comments received on the proposed rule and the RDS interim final regulations, we would determine whether to adopt any of the legal theories discussed in the preamble discussion of the RDS interim final rule, and whether to finalize the regulatory revisions based on our change in interpretation of section 1860D–22(b) of the Act set forth in the proposed rule.

We received seven timely comments from stakeholders on the January 12, 2009 proposed rule. Because the provisions of the January 2009 proposed rule are closely related to the legal theory provisions of the final rule with comment period, we responded to the comments regarding these provisions in section II.A. of this final rule.

After review of the comments, we are finalizing our proposed changes to part 423, Subpart J to reflect the proposed interpretation of our authority under section 1860D–22(b) of the Act. In addition, we are finalizing the regulations for the RDS program as set forth in the final rule with comment period. Specifically, we are declining to adopt the Part D definition of ''negotiated price,'' we are not revising the definition of ''actually paid'' to require RDS sponsors to report retained rebates, and we are finalizing the other definitions set forth in § 423.882 and the provisions of § 423.888, as set forth in the final rule with comment period, subject to the modification described in section II.C. of this final rule.

C. Technical Correction

During our review of the comments on these rules, we noticed an inconsistency between the preamble discussions and the regulatory text in the May 2008 proposed rule; and the regulations text of the January 2009 final rule with comment period regarding the definition of the RDS term ''actually paid''.

Specifically, the preamble discussions of the RDS term ''actually paid'' in the May 2008 and January 2009 proposed rule and final rule with comment period, and the regulations text of the May 2008 proposed rule (73 FR 28571, 73 FR 28602, and 74 FR 1515, respectively), all note that direct and indirect remuneration can be from any source, and such remuneration will cause the amounts that are actually paid to be reduced. The regulatory text in the January 2009 final rule with comment period incorrectly specified that the direct and indirect remuneration may only be from any manufacturer or pharmacy.

The statutory definition of ''allowable retiree costs'', when stating that such costs are costs that are actually paid (net of discounts, chargebacks, and average percentage rebates), does not limit the source from which these discounts, chargebacks, and average percentage rebates come (see section 1860D–22(a)(3)(C)) of the Act (42 U.S.C. 1395w–132(a)(3)(C)). Limiting the source from which direct and indirect remuneration may be derived is not consistent with the proposed rule, or the preamble discussion in the interim final rule (nor is it consistent with the Part D regulations).

Therefore, in this final rule, we are making a technical correction to the definition of the RDS definition of ''actually paid'' (see § 423.882) by revising the phrase ''from any manufacturer or pharmacy'' to read ''from any source'' because it does not matter from what source direct or indirect remuneration comes, as long as the remuneration serves to decrease the costs incurred under the qualified retiree prescription drug plan. So the definition in § 423.882 will read as follows:

> Actually paid means, that the costs must be actually incurred by the qualified retiree prescription drug plan and must be net of any direct or indirect remuneration (including discounts, charge backs or rebates, cash discounts, free goods contingent on a purchase agreement, up-front payments, coupons, goods in kind, free or reduced-price services, grants, or other price concessions or similar benefits offered to some or all purchasers) from any source that would serve to decrease the costs incurred under the qualified retiree prescription drug plan.

III. Provisions of the Final Rule

In this final rule, we are adopting the provisions of the January 2009 proposed rule and the provisions of the final rule with comment period (see section II.B.3. of this final rule) with the technical correction to § 423.882 described in section II.C. of this final rule.

IV. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

V. Regulatory Impact Statement

A. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This rule is not a significant and/or an economically significant rule. This rule will not impose added benefits or costs on stakeholders because it allows

stakeholders the same reporting flexibilities that they exercise currently.

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, we estimate that this rule will not have a significant impact on a substantial number of small entities. In fact, the policy approach taken in this final rule is intended to minimize impacts on any size business, including small businesses, or other small entities. This final rule allows RDS sponsors the flexibility to report drug costs on either a pass-through or lock-in basis, so that they may negotiate arrangements most beneficial to the RDS sponsor, and allows RDS sponsors to choose whether they will report retained rebates. This rule does not affect hospitals or other health care providers because the rule relates to how an RDS sponsor reports drug costs in order to receive an RDS payment. The amounts reported do not relate to the amounts actually paid to hospitals and other providers because the subsidy is an after-the-fact subsidy; meaning that the drug costs are incurred and paid and then an RDS sponsor may receive an RDS payment. Therefore, the Secretary has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. This rule will not have a significant impact on small rural hospitals, because it does not relate to small rural hospitals either directly or indirectly. Therefore, the Secretary has determined that this final rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2011, that threshold is approximately $136 million. This rule does not contain mandates that will impose spending costs on State, local, or tribal governments in the aggregate, or by the private sector, of $136 million or more.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a final rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This rule will not have a substantial direct effect on State or local governments, nor will it preempt States, or otherwise have a Federalism implication.

B. Anticipated Effects

We do not anticipate effects on RDS sponsors, other providers or the Medicare program.

C. Alternatives Considered

We considered requiring RDS sponsors to report pass-through pricing and to require the reporting of retained rebates but decided against this approach because commenters believe that requiring these reporting structures could cause RDS sponsors not to participate in the RDS Program.

D. Conclusion

We do not believe that this rule will have an impact on RDS sponsors or any other stakeholders. We do not believe that a regulatory flexibility analysis, or an analysis required by section 1102(b) of the Act, are required, beyond the analysis performed in this section and the discussions provided in the section II. of this final rule.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 423

Administrative practice and procedure, Emergency medical services, Health facilities, Health maintenance organizations (HMO), Health professionals, Medicare, Penalties, Privacy, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR part 423 as set forth below:

PART 423—VOLUNTARY MEDICARE PRESCRIPTION DRUG BENEFIT

■ 1. The authority citation for part 423 continues to read as follows:

Authority: Secs. 1102, 1860D–1 through 1860D–42, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395w–101 through 1395w–152, and 1395hh).

Subpart J—Coordination of Part D Plans With Other Prescription Drug Coverage

■ 2. Section 423.454 is amended by revising the definition ''Employer-sponsored group prescription drug plan'' to read as follows:

§ 423.454 Definitions.

* * * * *

Employer-sponsored group prescription drug plan means, prescription drug coverage offered to retirees who are Part D eligible individuals under employment-based retiree health coverage. For purposes of this subpart, employment-based retiree health coverage is such coverage (as defined in § 423.882) provided through a Medicare Part D plan, or for which a plan sponsor could qualify for payments under Subpart R of this part.

* * * * *

■ 3. Section 423.458 is amended as follows:

■ A. Republishing the heading of paragraph (c).

■ B. Revising paragraph (c)(1).

■ B. Redesignating paragraph (c)(2) as paragraph (c)(3).

■ D. Adding a new paragraph (c)(2).

The revision and addition read as follows:

§ 423.458 Application of Part D rules to certain Part D plans on and after January 1, 2006.

* * * * *

(c) *Employer group waiver*—(1) *General rule for employer-sponsored group prescription drug plans that are Medicare Part D plans.* CMS may waive or modify any requirement under this part that hinders the design of, the offering of, or the enrollment in an employer-sponsored group prescription drug plan, including authorizing the establishment of separate premium amounts for enrollees of the employer-sponsored group prescription drug plan and limitations on enrollment in such plan to Part D eligible individuals participating in the sponsor's employment-based retiree health coverage. Any entity seeking to offer, sponsor, or administer an employer-sponsored group prescription drug plan may request, in writing, a waiver or modification of additional requirements under this Part that hinder its design of, the offering of, or the enrollment in, such employer-sponsored group prescription drug plan.

(2) *General rule for employer-sponsored group prescription drug plans for which a sponsor could qualify for payments under Subpart R of this part.* CMS may waive or modify any

requirement under this part that hinders the design of, the offering of, or the enrollment in an employer-sponsored group prescription drug plan.

* * * * *

Subpart R—Payments to Sponsors of Retiree Prescription Drug Plans

§ 423.882 [Amended]

■ 4. In § 423.882, the definition of ''Actually paid'' is amended by removing the phrase ''manufacturer or pharmacy'' and adding the term ''source'' in its place.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 3, 2011.

Donald M. Berwick,

Administrator, Centers for Medicare and Medicaid Services.

Approved: January 6, 2012

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2012–473 Filed 1–11–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2011–0020; Internal Agency Docket No. FEMA–8093]

Suspension of Community Eligibility for Repealing Its Floodplain Management Regulations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: FEMA is suspending one community because it repealed its floodplain management regulations under the National Flood Insurance Program (NFIP). If documentation is received from the community before the effective suspension date, indicating it has amended its floodplain management regulations in compliance with the NFIP requirements, FEMA will withdraw the suspension by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of the community's scheduled suspension is the date listed in the fourth column of the following table.

FOR FURTHER INFORMATION CONTACT: David Stearrett, Mitigation Directorate, 1800 South Bell Street Arlington, VA 20598–3072, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP) enables property owners to purchase flood insurance that is generally not otherwise available. In return, communities agree to adopt and implement local floodplain management regulations that contribute to protecting lives and reducing the risk of property damage from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body adopts adequate floodplain management measures with effective administration and enforcement processes.

The community listed in this notice no longer complies with the NFIP requirements set forth at 44 CFR part 59 *et seq.* Under 44 CFR 59.24(d), communities will be suspended from the NFIP for repealing its floodplain management regulations. Accordingly, FEMA is suspending Graham County, North Carolina (''the County'') on the effective date in the fourth column of the table. As of that date, the purchase of new flood insurance policies or the renewal of existing flood insurance policies under the NFIP will no longer be available.

FEMA will not suspend Graham County, however, if the community submits the documentation required under 44 CFR 59.24(d) to show that it has amended its floodplain management regulations to adopt the current effective Flood Insurance Study and Flood Insurance Rate Map dated April 19, 2010. This documentation must be received by FEMA before the actual suspension date. If Graham County successfully demonstrates its compliance with NFIP regulations, FEMA will continue its eligibility for the sale of NFIP insurance. FEMA will then publish in the **Federal Register** a notice withdrawing the suspension of the community. In the interim, if you wish to determine whether FEMA has suspended the County on the suspension date, please contact the FEMA Region IV office at (770) 220–5414. Additional information may also be found at *http://www.fema.gov/plan/prevent/floodplain/nfipkeywords/suspension.shtm.*

FEMA identified the special flood hazard areas (SFHAs) in this community by publishing a Flood Insurance Rate Map. The effective date of this map is indicated in the last column of the table. By law, no Federally regulated entity may provide financial assistance for acquisition or construction purposes for property located in a SFHA unless the community in which the property is located is participating in the NFIP (42 U.S.C. 4106(a)). The prohibition against certain types of Federal disaster assistance also becomes effective for Graham County, North Carolina, on the date shown in the fourth column (42 U.S.C. 4106(b)).

The Administrator finds that notice and public comment procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because the community listed in this final rule has been adequately notified. The community received a letter dated August 3, 2011, and a subsequent Suspension Letter. FEMA addressed these notifications to the Chairman of the Graham County Board of Commissioners indicating that we will suspend the County unless the County takes the required corrective actions and remedial measures before the effective suspension date. Because we have made these notifications, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The community listed no longer complies with the statutory requirements, and after the effective date, flood insurance will no longer be available in the community unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the

Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR Part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.,* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State	Location	Community No.	Date certain Federal assistance no longer available in special flood hazard area and the sale of flood insurance no longer available in the community	Current effective map date
Region IV				
North Carolina	Graham, County of	370105	February 1, 2012	April 19, 2010.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: January 4, 2012.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2012–489 Filed 1–11–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2011–0002]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Modified Base (1% annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified BFEs will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective dates for these modified BFEs are indicated on the following table and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below of the modified BFEs for each community listed. These modified BFEs have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Federal Insurance and Mitigation Administrator has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this final rule includes the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection.

The modified BFEs are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings. The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132, Federalism.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p.376.

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama:					
Jefferson (FEMA Docket No.: B–1225).	Unincorporated areas of Jefferson County (11–04–4802P).	August 10, 2011; August 17, 2011; *The Alabama Messenger*.	The Honorable David Carrington, President, Jefferson County Commission, 716 Richard Arrington Jr. Boulevard North, Suite 230, Birmingham, AL 35203.	September 6, 2011	010217
Madison (FEMA Docket No.: B–1211).	City of Huntsville (10–04–7544P).	June 30, 2011; July 7, 2011; *The Huntsville Times*.	The Honorable Tommy Battle, Mayor, City of Huntsville, 308 Fountain Circle, 8th Floor, Huntsville, AL 35801.	November 4, 2011	010153
Madison (FEMA Docket No.: B–1211).	City of Madison (10–04–7544P).	June 30, 2011; July 7, 2011; *The Huntsville Times*.	The Honorable Paul Finley, Mayor, City of Madison, 100 Hughes Road, Madison, AL 35758.	November 4, 2011	010308
Arizona:					
Pima (FEMA Docket No.: B–1219).	City of Tucson (10–09–2016P).	July 22, 2011; July 29, 2011; *The Arizona Daily Star*.	The Honorable Robert E. Walkup, Mayor, City of Tucson, 255 West Alameda Street, Tucson, AZ 85701.	November 28, 2011	040076
Pinal (FEMA Docket No.: B–1219).	Unincorporated areas of Pinal County (11–09–0945P).	July 15, 2011; July 22, 2011; *The Casa Grande Dispatch*.	The Honorable Pete Rios, Chairman, Pinal County Board of Supervisors, 31 North Pinal Street, Building A, Florence, AZ 85132.	November 21, 2011	040077
Arkansas:					
Benton (FEMA Docket No.: B–1215).	City of Bentonville (11–06–3300P).	July 1, 2011; July 8, 2011; *The Benton County Daily Record*.	The Honorable Bob McCaslin, Mayor, City of Bentonville, 117 West Central Avenue, Bentonville, AR 72712.	November 7, 2011	050012
Benton (FEMA Docket No.: B–1219).	City of Bentonville (11–06–0823P).	July 7, 2011; July 14, 2011; *The Benton County Daily Record*.	The Honorable Bob McCaslin, Mayor, City of Bentonville, 117 West Central Avenue, Bentonville, AR 72712.	November 11, 2011	050012
California:					
Fresno (FEMA Docket No.: B–1211).	Unincorporated areas of Fresno County (10–09–3948P).	June 8, 2011; June 15, 2011; *The Fresno Bee*.	The Honorable Phil Larson, Chairman, Fresno County Board of Supervisors, 2281 Tulare Street, Room 300, Fresno, CA 93721.	October 13, 2011	065029
Sacramento (FEMA Docket No.: B–1219).	City of Sacramento (11–09–2263P).	July 16, 2011; July 23, 2011; *The Sacramento Bee*.	The Honorable Kevin Johnson, Mayor, City of Sacramento, 915 I Street, 5th Floor, Sacramento, CA 95814.	November 21, 2011	060266
Sacramento (FEMA Docket No.: B–1219).	Unincorporated areas of Sacramento County (11–09–2263P).	July 16, 2011; July 23, 2011; *The Sacramento Bee*.	The Honorable Roberta MacGlashan, Chair, Sacramento County Board of Supervisors, 700 H Street, Suite 2450, Sacramento, CA 95814.	November 21, 2011	060262
Ventura (FEMA Docket No.: B–1219).	City of Camarillo (11–09–0883P).	July 27, 2011; August 3, 2011; *The Ventura County Star*.	The Honorable Mike Morgan, Mayor, City of Camarillo, 601 Carmen Drive, Camarillo, CA 93010.	July 19, 2011	065020
Ventura (FEMA Docket No.: B–1219).	Unincorporated areas of Ventura County (11–09–0883P).	July 27, 2011; August 3, 2011; *The Ventura County Star*.	The Honorable Linda Parks, Chair, Ventura County Board of Supervisors, 800 South Victoria Avenue, Ventura, CA 93009.	July 19, 2011	060413
Colorado:					
Teller (FEMA Docket No.: B–1219).	City of Woodland Park (10–08–0932P).	July 13, 2011; July 20, 2011; *The Pikes Peak Courier View*.	The Honorable Steve Randolph, Mayor, City of Woodland Park, 220 West South Avenue, Woodland Park, CO 80863.	November 17, 2011	080175
Teller (FEMA Docket No.: B–1219).	Unincorporated areas of Teller County (10–08–0932P).	July 13, 2011; July 20, 2011; *The Pikes Peak Courier View*.	The Honorable Jim Ignatius, Chairman, Teller County Board of Commissioners, 112 North ''A'' Street, Cripple Creek, CO 80813.	November 17, 2011	080173
Florida:					
Charlotte (FEMA Docket No.: B–1225).	Unincorporated areas of Charlotte County (11–04–5839P).	August 5, 2011; August 12, 2011; *The Charlotte Sun*.	The Honorable Bob Starr, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Port Charlotte, FL 33948.	July 28, 2011	120061
Marion (FEMA Docket No.: B–1219).	City of Ocala (11–04–2943P).	July 21, 2011; July 28, 2011; *The Star-Banner*.	The Honorable Randy Ewers, Mayor, City of Ocala, 151 Southeast Osceola Avenue, Ocala, FL 34471.	November 25, 2011	120330
St. Lucie (FEMA Docket No.: B–1225).	Unincorporated areas of St. Lucie County (11–04–4362P).	August 5, 2011; August 12, 2011; *The St. Lucie News-Tribune*.	The Honorable Chris Craft, Chairman, St. Lucie County Board of Commissioners, 2300 Virginia Avenue, Fort Pierce, FL 34982.	July 28, 2011	120285
Sumter (FEMA Docket No.: B–1225).	Unincorporated areas of Sumter County (11–04–5885P).	August 4, 2011; August 11, 2011; *The Sumter County Times*.	The Honorable Don Burgess, Chairman, Sumter County Board of Commissioners, 7375 Powell Road, Wildwood, FL 34785.	July 28, 2011	120296
Hawaii: Honolulu (FEMA Docket No.: B–1219).	City and County of Honolulu (10–09–3709P).	July 15, 2011; July 22, 2011; *The Honolulu Star-Advertiser*.	The Honorable Peter B. Carlisle, Mayor, City and County of Honolulu, 530 South King Street, Room 300, Honolulu, HI 96813.	November 21, 2011	150001

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
New Mexico: Dona Ana (FEMA Docket No.: B–1215).	City of Las Cruces (11–06–1405P).	June 23, 2011; June 30, 2011; *The Las Cruces Sun-News*.	The Honorable Kenneth Daniel Gallegos Miyagishima, Mayor, City of Las Cruces, 700 North Main Street, Las Cruces, NM 88004.	June 16, 2011	355332
New York:					
Bronx (FEMA Docket No.: B–1215).	City of New York (10–02–2163P).	December 24, 2010; December 31, 2010; *The Chief*.	The Honorable Michael R. Bloomberg, Mayor, City of New York, City Hall, 260 Broadway, New York, NY 10007.	June 16, 2011	360497
Monroe (FEMA Docket No.: B–1215).	Town of Pittsford (11–02–0382P).	December 2, 2010; December 9, 2010; *The Brighton-Pittsford Post*.	The Honorable William A. Carpenter, Supervisor, Town of Pittsford, 11 South Main Street, Pittsford, NY 14534.	May 24, 2011	360429
Niagara (FEMA Docket No.: B–1215).	Town of Wheatfield (10–02–1141P).	October 29, 2010; November 5, 2010; *The Niagara Gazette*.	The Honorable Robert B. Cliffe, Supervisor, Town of Wheatfield, 2800 Church Road, Wheatfield, NY 14120.	September 20, 2010	360513
Suffolk (FEMA Docket No.: B–1219).	Town of Brookhaven (11–02–0892X).	January 25, 2011; February 1, 2011; *Newsday*.	The Honorable Mark Lesko, Supervisor, Town of Brookhaven, 1 Independence Hill, Farmingville, NY 11738.	July 18, 2011	365334
North Carolina:					
Mecklenburg (FEMA Docket No.: B–1219).	City of Charlotte (11–04–1802P).	July 6, 2011; July 13, 2011; *The Charlotte Observer*.	The Honorable Anthony R. Foxx, Mayor, City of Charlotte, 600 East 4th Street, Charlotte, NC 28202.	November 10, 2011	370159
Wake (FEMA Docket No.: B–1211).	Town of Holly Springs (09–04–6226P).	May 27, 2011; June 3, 2011; *The News & Observer*.	The Honorable Richard G. "Dick" Sears, Mayor, Town of Holly Springs, 128 South Main Street, Holly Springs, NC 27540.	October 3, 2011	370403
Wake (FEMA Docket No.: B–1211).	Unincorporated areas of Wake County (09–04–6226P).	May 27, 2011; June 3, 2011; *The News & Observer*.	Mr. David Cooke, Wake County Manager, 337 South Salisbury Street, Suite 1100, Raleigh, NC 27602.	October 3, 2011	370368
Oklahoma: Tulsa (FEMA Docket No.: B–1219).	City of Broken Arrow (10–06–0428P).	July 28, 2011; August 4, 2011; *The Tulsa Daily Commerce & Legal News*.	The Honorable Mike Lester, Mayor, City of Broken Arrow, 220 South 1st Street, Broken Arrow, OK 74012.	July 21, 2011	400236
Pennsylvania:					
Chester (FEMA Docket No.: B–1215).	Township of Caln (10–03–1911P).	December 7, 2010; December 14, 2010; *The Daily Local News*.	Mr. Gregory E. Prowant, AICP, Caln Township Manager, 253 Municipal Drive, Thorndale, PA 19372.	April 13, 2011	422247
Chester (FEMA Docket No.: B–1215).	Township of West Goshen (10–03–1283P).	March 4, 2011; March 11, 2011; *The Daily Local News*.	The Honorable Edward G. Meakim, Jr., Chairman, Township of West Goshen Board of Supervisors, 1025 Paoli Pike, West Chester, PA 19380.	February 25, 2011	420293
Dauphin (FEMA Docket No.: B–1215).	Township of West Hanover (10–03–2139P).	April 7, 2011; April 14, 2011; *The Patriot-News*.	The Honorable Adam Klein, Chairman, Township of West Hanover Board of Supervisors, 7171 Allentown Boulevard, Harrisburg, PA 17112.	August 12, 2011	421600
South Carolina:					
Charleston (FEMA Docket No.: B–1225).	Town of Mount Pleasant (11–04–5533P).	August 4, 2011; August 11, 2011; *The Post and Courier*.	The Honorable Billy Swails, Mayor, Town of Mount Pleasant, 100 Ann Edwards Lane, Mount Pleasant, SC 29464.	July 28, 2011	455417
Charleston (FEMA Docket No.: B–1225).	Unincorporated areas of Charleston County (11–04–5329P).	August 4, 2011; August 11, 2011; *The Post and Courier*.	The Honorable Teddie E. Pryor, Sr., Chairman, Charleston County Council, 4045 Bridge View Drive, North Charleston, SC 29405.	July 28, 2011	455413
South Dakota: Fall River (FEMA Docket No.: B–1219).	City of Hot Springs (11–08–0656P).	July 5, 2011; July 12, 2011; *The Hot Springs Star*.	The Honorable Don DeVries, Mayor, City of Hot Springs, 303 North River Street, Hot Springs, SD 57747.	November 9, 2011	460027
Tennessee:					
Greene (FEMA Docket No.: B–1225).	City of Tusculum (11–04–3995P).	June 30, 2011; July 7, 2011; *The Greeneville Sun*.	The Honorable John Foster, Mayor, City of Tusculum, 145 Alexander Street, Greeneville, TN 37745.	June 23, 2011	470329
Greene (FEMA Docket No.: B–1225).	Town of Greeneville (11–04–3995P).	June 30, 2011; July 7, 2011; *The Greeneville Sun*.	The Honorable W. T. Daniels, Mayor, Town of Greeneville, 200 North College Street, Greeneville, TN 37745.	June 23, 2011	470069
Maury (FEMA Docket No.: B–1219).	City of Spring Hill (11–04–2516P).	July 28, 2011; August 4, 2011; *The Daily Herald*.	The Honorable Michael Dinwiddie, Mayor, City of Spring Hill, 199 Town Center Parkway, Spring Hill, TN 37174.	August 22, 2011	470278
Texas:					
Collin (FEMA Docket No.: B–1215).	City of Plano (10–06–0997P).	June 23, 2011; June 30, 2011; *The Plano Star Courier*.	The Honorable Phil Dyer, Mayor, City of Plano, 1520 Avenue K, Plano, TX 75074.	August 31, 2010	480140
Comal (FEMA Docket No.: B–1215).	City of New Braunfels (11–06–0637P).	May 31, 2011; June 7, 2011; *The New Braunfels Herald-Zeitung*.	The Honorable Bruce Boyer, Mayor, City of New Braunfels, 424 South Castell Avenue, New Braunfels, TX 78130.	October 5, 2011	485493
Dallas (FEMA Docket No.: B–1211).	City of Coppell (11–06–0227P).	June 10, 2011; June 17, 2011; *The Citizens' Advocate*.	The Honorable Doug Stover, Mayor, City of Coppell, 255 Parkway Boulevard, Coppell, TX 75019.	October 17, 2011	480170
Dallas (FEMA Docket No.: B–1211).	City of Dallas (11–06–3043P).	June 9, 2011; June 16, 2011; *The Dallas Morning News*.	The Honorable Dwaine R. Caraway, Mayor, City of Dallas, 1500 Marilla Street, Room 5EN, Dallas, TX 75201.	October 14, 2011	480171
Dallas and Tarrant (FEMA Docket No.: B–1215).	City of Grand Prairie (10–06–1790P).	May 27, 2011; June 3, 2011; *The Dallas Morning News*.	The Honorable Charles England, Mayor, City of Grand Prairie, 206 West Church Street, Grand Prairie, TX 75053.	October 3, 2011	485472

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Ellis (FEMA Docket No.: B–1219).	City of Midlothian (10–06–2706P).	May 4, 2011; May 11, 2011; *The Midlothian Mirror*.	The Honorable Boyce Whatley, Mayor, City of Midlothian, 104 West Avenue East, Midlothian, TX 76065.	May 31, 2011	480801
Ellis (FEMA Docket No.: B–1219).	Unincorporated areas of Ellis County (10–06–2706P).	May 4, 2011; May 11, 2011; *The Waxahachie Daily Light*.	The Honorable Carol Bush, Ellis County Judge, 101 West Main Street, Waxahachie, TX 75165.	May 31, 2011	480798
Jefferson (FEMA Docket No.: B–1215).	City of Beaumont (10–06–1909P).	June 30, 2011; July 7, 2011; *The Beaumont Enterprise*.	The Honorable Becky Ames, Mayor, City of Beaumont, 801 Main Street, Beaumont, TX 77701.	November 4, 2011	485457
Nueces (FEMA Docket No.: B–1215).	City of Corpus Christi (11–06–0948P).	June 14, 2011; June 21, 2011; *The Corpus Christi Caller-Times*.	The Honorable Joe Adame, Mayor, City of Corpus Christi, 1201 Leopard Street, Corpus Christi, TX 78401.	June 7, 2011	485464
Rockwall (FEMA Docket No.: B–1219).	City of Rockwall (11–06–2878P).	July 15, 2011; July 22, 2011; *The Rockwall County News*.	The Honorable David Sweet, Mayor, City of Rockwall, 385 South Goliad Street, Rockwall, TX 75087.	November 21, 2011	480547
Tarrant (FEMA Docket No.: B–1219).	City of Arlington (11–06–1155P).	July 21, 2011; July 28, 2011; *The Fort Worth Star-Telegram*.	The Honorable Dr. Robert Cluck, Mayor, City of Arlington, 101 West Abram Street, Arlington, TX 76004.	November 25, 2011	485454
Tarrant (FEMA Docket No.: B–1219).	City of Fort Worth (10–06–2761P).	May 6, 2011; May 13, 2011; *The Fort Worth Star-Telegram*.	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	September 12, 2011	480596
Tarrant (FEMA Docket No.: B–1219).	City of Saginaw (10–06–2761P).	May 6, 2011; May 13, 2011; *The Fort Worth Star-Telegram*.	The Honorable Gary Brinkley, Mayor, City of Saginaw, 333 West McLeroy Boulevard, Saginaw, TX 76179.	September 12, 2011	480610
Travis (FEMA Docket No.: B–1219).	City of Austin (11–06–3301P).	June 28, 2011; July 5, 2011; *The Austin American-Statesman*.	The Honorable Lee Leffingwell, Mayor, City of Austin, 301 West 2nd Street, 2nd Floor, Austin, TX 78701.	November 2, 2011	480624
Wise (FEMA Docket No.: B–1215).	City of Bridgeport (11–06–3042P).	June 9, 2011; June 16, 2011; *The Bridgeport Index*.	The Honorable Keith McComis, Mayor, City of Bridgeport, 900 Thompson Street, Bridgeport, TX 76426.	October 14, 2011	480677
Wise (FEMA Docket No.: B–1215).	Unincorporated areas of Wise County (11–06–3042P).	June 9, 2011; June 16, 2011; *The Wise County Messenger*.	The Honorable Bill McElhaney, Wise County Judge, 101 North Trinity Street, Suite 101, Decatur, TX 76234.	October 14, 2011	481051
Virginia:					
Fairfax (FEMA Docket No.: B–1215).	Unincorporated areas of Fairfax County (11–03–0675P).	May 6, 2011; May 13, 2011; *The Washington Times*.	The Honorable Sharon Bulova, Chairman, Fairfax County Board of Supervisors, 12000 Government Center Parkway, Suite 530, Fairfax, VA 22035.	May 31, 2011	515525
Richmond (FEMA Docket No.: B–1215).	City of Richmond (10–03–0790P).	February 11, 2011; February 18, 2011; *The Richmond Times-Dispatch*.	The Honorable Dwight C. Jones, Mayor, City of Richmond, 900 East Broad Street, Suite 201, Richmond, VA 23219.	June 20, 2011	510129

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: December 27, 2011.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–485 Filed 1–11–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1237]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Federal Insurance and Mitigation Administrator reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This interim rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This interim rule involves no policies that have federalism implications under Executive Order 13132, Federalism.

Executive Order 12988, Civil Justice Reform. This interim rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Delaware:					
Kent	Town of Camden (10–03–0303P).	February 18, 2011; February 25, 2011; *The Delaware State News.*	The Honorable Richard E. Maly, Mayor, Town of Camden, 1783 Friends Way Camden, DE 19934.	June 27, 2011	100003
Kent	Unincorporated areas of Kent County (10–03–0303P).	February 18, 2011; February 25, 2011; *The Delaware State News.*	The Honorable P. Brooks Banta, President, Kent County Levy Court, Administrative Complex, 555 South Bay Road, Room 243, Dover, DE 19901.	June 27, 2011	100001
Puerto Rico: Puerto Rico.	Commonwealth of Puerto Rico (10–02–1752P).	October 13, 2011; October 20, 2011; *El Nuevo Dia.*	The Honorable Rubén Flores-Marzán, Chairperson, Puerto Rico Planning Board, Roberto Sanchez Vilella Governmental Center, North Building, 16th Floor, De Diego Avenue International Baldorioty de Castro Avenue San Juan, PR 00940.	October 6, 2011	720000
Texas:					
Bexar	City of San Antonio (11–06–0604P).	November 4, 2011; November 11, 2011; *The San Antonio Express-News.*	The Honorable Julián Castro, Mayor, City of San Antonio, 100 Military Plaza San Antonio, TX 78205.	March 12, 2012	480045
Texas:					
Bexar	Unincorporated areas of Bexar County (11–06–3419P).	November 16, 2011; November 23, 2011; *The Daily Commercial Recorder.*	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	March 22, 2012	480035
Denton	Town of Flower Mound (11–06–2301P).	October 25, 2011; November 1, 2011; *The Denton Record-Chronicle.*	The Honorable Melissa D. Northern, Mayor, Town of Flower Mound, 2121 Cross Timbers Road Flower Mound, TX 75028.	February 29, 2012	480777
Denton	Unincorporated areas of Denton County (11–06–1910P).	October 28, 2011; November 4, 2011; *The Denton Record-Chronicle.*	The Honorable Mary Horn, Denton County Judge, 110 West Hickory Street, 2nd Floor, Denton, TX 76201.	October 21, 2011	480774
Grimes	Unincorporated areas of Grimes County (11–06–2364P).	November 9, 2011; November 16, 2011; *The Navasota Examiner.*	The Honorable Betty Shiflett, Grimes County Judge, Grimes County Courthouse, 100 Main Street Anderson, TX 77830.	May 2, 2012	481173
Montgomery	Unincorporated areas of Montgomery County (11–06–3114P).	October 26, 2011; November 2, 2011; *The Conroe Courier.*	The Honorable Alan Sadler, Montgomery County Judge, 501 North Thompson Street, Suite 401, Conroe, TX 77301.	October 19, 2011	480483
Tarrant	City of Crowley (11–06–1037P).	November 3, 2011; November 10, 2011; *The Crowley Star.*	The Honorable Billy P. Davis, Mayor, City of Crowley, 201 East Main Street, Crowley, TX 76036.	March 9, 2012	480591
Tarrant	City of Fort Worth (11–06–2373P).	November 1, 2011; November 8, 2011; *The Fort Worth Star-Telegram.*	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street Fort Worth, TX 76102.	March 7, 2012	480596
Victoria	City of Victoria (11–06–1656P).	November 3, 2011; November 10, 2011; *The Victoria Advocate.*	The Honorable Will Armstrong, Mayor, City of Victoria, 105 West Juan Linn Street Victoria, TX 77901.	March 9, 2012	480638

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Virginia: Henrico	Unincorporated areas of Henrico County (10–03–0514P).	December 14, 2010; December 21, 2010; *The Richmond Times-Dispatch*.	Mr. Virgil R. Hazelett, Henrico County Manager, 4301 East Parham Road Henrico, VA 23228.	April 20, 2011	510077

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: December 27, 2011.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2012–488 Filed 1–11–12; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8, 12, 16, 19, 38, and 52

[FAC 2005–54; FAR Case 2011–024; Item VI; Docket 2011–0024, Sequence 1]

RIN 9000–AM12

Federal Acquisition Regulation; Set-Asides for Small Business; Extension of Comment Period

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule; extension of comment period.

SUMMARY: DoD, GSA, and NASA issued an interim rule on November 2, 2011, amending the Federal Acquisition Regulation (FAR) to implement section 1331 of the Small Business Jobs Act of 2010 (Jobs Act). Section 1331 addresses set-asides of task- and delivery-orders under multiple-award contracts, partial set-asides under multiple-award contracts, and the reserving of one or more multiple-award contracts that are awarded using full and open competition. Within this same context, section 1331 also addresses the Federal Supply Schedules Program managed by GSA. DoD, GSA, and NASA are coordinating with the Small Business Administration (SBA) on the development of an SBA proposed rule that will provide greater detail regarding implementation of section 1331 authorities. The comment period is being extended to provide additional time for interested parties to review the FAR changes of FAR Case 2011–024, Set-Asides for Small Business, to February 13, 2012.

DATES: The comment period for the interim rule published November 2, 2011, at 76 FR 68032, and effective November 2, 2011, is extended. Interested parties should submit written comments to the Regulatory Secretariat on or before February 13, 2012.

ADDRESSES: Submit comments identified by FAC 2005–54, FAR Case 2011–024, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''FAR Case 2011–024'' under the heading ''Enter Keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''FAR Case 2011–024.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''FAR Case 2011–024'' on your attached document.
- *Fax:* (202) 501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

Instructions: Please submit comments only and cite FAC 2005–54, FAR Case 2011–024, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Karlos Morgan, Procurement Analyst, at (202) 501–2364, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–54, FAR Case 2011–024.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 76 FR 68032, November 2, 2011. The comment period is extended to provide additional time for interested parties to review and submit comments on the published FAR changes until February 13, 2012.

List of Subjects in 48 CFR Parts 8, 12, 16, 19, 38, and 52

Government procurement.

Dated: January 9, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy. Office of Governmentwide Policy.

[FR Doc. 2012–455 Filed 1–11–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 391

[Docket No. FMCSA–2010–0096]

RIN 2126–AB29

Drivers of CMVs: Restricting the Use of Cellular Phones; Technical Amendment

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: The FMCSA amends its December 3, 2011, final rule that restricted the use of hand-held mobile telephones by drivers of commercial motor vehicles. That rule was jointly issued by FMCSA and Pipeline and Hazardous Materials Safety Administration (PHMSA), but this technical amendment only affects an FMCSA regulation. The purpose of this rule is to correct a clerical error.

DATES: This final rule is effective January 12, 2012.

ADDRESSES: *Public Access to the Docket:* You may view, print, and download this final rule and all related documents and background material on-line at *http://www.regulations.gov,* using the Docket ID Number FMCSA–2010–0096. These documents can also be examined at the U.S. Department of Transportation, Docket Operations, West Building-Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on today's final rule, please contact: Mr. Brian Routhier,

Vehicle and Roadside Operation Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–4325.

SUPPLEMENTARY INFORMATION:

Legal Basis

The legal basis of the 2011 final rule is also applicable to this rule. See 76 FR 75472–75474, December 2, 2011.

Background

The December 3, 2011, Drivers of CMVs: Restricting the Use of Cellular Phones final rule (76 FR 75470) had a clerical error in § 391.15(f)(1) that stated ''paragraph (g)(2)'' instead of ''paragraph (f)(2)''. Today's final rule corrects this clerical error.

Agency's Assessment And Decision

The Agency decided to issue this amendment because the change is necessary to correct a clerical error that may confuse the public.

Rulemaking Analyses and Notices

Administrative Procedure Act

If an Agency determines that the prior notice and opportunity for public comment on a rule normally required by the Administrative Procedure Act are impracticable, unnecessary, or contrary to the public interest (the so-called ''good cause'' finding), it may publish the rule without providing such notice and opportunity for comment. (See 5 U.S.C. 553(b).) The amendment made by this final rule makes a change to correct an inadvertent clerical error. For these reasons, FMCSA finds good cause that notice and public comment are unnecessary. Further, the Agency finds good cause under 5 U.S.C. 553(d)(3) to make the amendments effective upon publication.

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866, as supplemented by Executive Order 13563 (76 FR 3821, Jan. 21, 2011), or within the meaning of the Department of Transportation regulatory policies and procedures. The Office of Management and Budget (OMB) did not review this document. The Agency expects the final rule will have minimal costs; therefore, a full regulatory evaluation is unnecessary.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), FMCSA has evaluated the effects of this rule on small entities. The rule corrects a clerical error; therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rulemaking does not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, *et seq.*), that will result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector, of $143.1 million (which is the value of $100 million in 2010 after adjusting for inflation) or more in any 1 year.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

The FMCSA analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The Agency determined that this rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rulemaking does not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

The FMCSA analyzed this rule in accordance with the principles and criteria contained in Executive Order 13132. Although the 2011 final rule had possible Federalism implications, FMCSA determined that it did not create a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This rulemaking does not change that determination in any way.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this action.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that FMCSA consider the impact of paperwork and other information collection burdens imposed on the public. The Agency has determined that no new information collection requirements are associated with the technical amendments to this final rule.

National Environmental Policy Act

The FMCSA analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1, published March 1, 2004 (69 FR 9680), that this action does not have any significant impact on the environment. In addition, the actions in this final rule are categorically excluded from further analysis and documentation as per paragraph 6.b of Appendix 2 of FMCSA's Order 5610.1. The FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since the action results in no increase in emissions.

Executive Order 13211 (Energy Effects)

The FMCSA analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a ''significant energy action'' under that Executive Order because it is not economically significant and is not likely to have an adverse effect on the supply, distribution, or use of energy.

List of Subjects in 49 CFR Part 391

Alcohol abuse, Drug abuse, Drug testing, Highway safety, Motor carriers, Reporting and recordkeeping requirements, Safety, Transportation.

In consideration of the foregoing, FMCSA amends Part 391 of Title 49, Code of Federal Regulations, as follows:

PART 391—QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS

■ 1. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. 504, 508, 31133, 31136, and 31502; sec. 4007(b), Pub. L. 102–240, 105 Stat. 1914, 2152; sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677; sec. 215, Pub. L. 106–159,113 Stat. 1748, 1767; and 49 CFR 1.73.

§ 391.15 [Amended]

■ 2. Amend § 391.15, in paragraph (f)(1), by removing the removing ''(g)(2)''and adding ''(f)(2)'' in its place.

Issued on: January 5, 2012.

Larry Minor,

Associate Administrator for Policy, Federal Motor Carrier Safety Administration.

[FR Doc. 2012–428 Filed 1–11–12; 8:45 am]

BILLING CODE 4910–EX–P

Proposed Rules

Federal Register
Vol. 77, No. 8
Thursday, January 12, 2012

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–0AR–2011–1004; FRL–9617–8]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Motor Vehicle Inspection and Maintenance Program—Deletion of Final Enhanced Inspection and Maintenance Emission Cutpoint Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Colorado on August 8, 2006. The August 8, 2006 revision updates Regulation Number 11, ''Motor Vehicle Emissions Inspection Program,'' by removing the light duty vehicle emission testing limits that went into effect on January 1, 2006 for 1996 and newer model year vehicles. This action is being taken under section 110 of the Clean Air Act.

DATES: Comments must be received on or before February 13, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2011–1004, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: russo.rebecca@epa.gov.*
- *Mail:* Carl Daly, Director, Air Program, Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Fax:* (303) 312–6064 (please alert the individual listed in **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Hand Delivery:* Carl Daly, Director, Air Program, Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2011–1004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Rebecca Russo, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number (303) 312–6757, fax number (303) 312–6064, or email *russo.rebecca@epa.gov.*

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, the following definitions apply:

(i) The word *Act* or initials *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *NAAQS* mean national ambient air quality standard.

(iv) The initials *ppb* mean parts per billion.

(v) The initials *SIP* mean or refer to State Implementation Plan.

(vi) The words *State* or *Colorado* mean the State of Colorado, unless the context indicates otherwise.

Table of Contents

I. General Information

What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI

information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

II. What is the purpose of this action?

In this action, EPA is proposing to approve a revision to Colorado's Regulation Number 11 (hereafter ''Regulation No. 11''), ''Motor Vehicle Emissions Inspection Program.'' This revision would remove the light duty vehicle emission testing limits (or ''cutpoints'') that went into effect on January 1, 2006 (hereafter referred to as the ''2006 cutpoints'') for 1996 and newer model year vehicles.[1] The emission testing limits that went into effect on January 1, 2003 under Regulation No. 11 (hereafter referred to as the ''2003 cutpoints'') would continue to be federally enforceable if we approve this revision. Under Regulation No. 11, a vehicle whose emissions exceed the applicable emissions cutpoints during an IM240 emissions test will fail the test and must be repaired and re-inspected.[2]

The 2006 cutpoints are 0.60 grams per mile for hydrocarbons (HC), 10.0 grams per mile for carbon monoxide (CO), and 1.5 grams per mile for oxides of nitrogen (NO_X). The 2003 cutpoints are 1.2 grams per mile for HC, 20 grams per mile for CO, and 3.0 grams per mile for NO_X. We have determined, and provide our rationale for our determination below, that it is reasonable for the State to remove the 2006 cutpoints from Regulation No. 11. If we approve this revision to Regulation No. 11, it will become part of the federally enforceable SIP for Colorado under the Clean Air Act (CAA).

III. What is the State's process to submit SIP revisions to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires states to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a state to us.

The Colorado Air Quality Control Commission (AQCC) held a public hearing on the revision to Regulation No. 11 on November 17, 2005. The AQCC adopted the revision to Regulation No. 11 directly after the hearing. This SIP revision became State effective on March 2, 2006, and the Governor submitted it to us on August 8, 2006.

We have evaluated the Governor's submittal for Regulation No. 11 and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA.

IV. EPA's Evaluation of the State's August 8, 2006 Submittal

We have reviewed the revision to Regulation. No. 11 that the State submitted on August 8, 2006 and find that our approval is warranted. We note that we are only acting on the State's revision to Regulation No. 11, Part F ''Maximum Allowable Emissions Limits for Motor Vehicle Exhaust, Evaporative and Visible Emissions for Light-Duty and Heavy Duty Vehicles,'' section III.A.2. On August 17, 2007, EPA approved other revisions to Regulation No. 11 that the State had adopted on November 17, 2005 (see 72 FR 46148). We describe the basis for our proposed approval below:

Basis for EPA's proposed approval: the State did not need the 2006 cupoints to attain the 1997 8-hour (80 ppb) ozone NAAQS.

The metro-Denver/North Front Range (''NFR'') area was designated as nonattainment for the 1997 8-hour (80 ppb) ozone NAAQS on November 20, 2007 (see 72 FR 53952, September 21, 2007). As a result of this nonattainment designation, Colorado was required to submit a dispersion modeled attainment demonstration that demonstrated attainment of the ozone NAAQS by the end of the ozone season in 2010. The State submitted a dispersion modeled attainment demonstration SIP revision on June 18, 2009 that demonstrated attainment by the end of the 2010 ozone season. EPA approved the State's June 18, 2009 SIP revision on August 5, 2011 (see 76 FR 47443). In its attainment demonstration for the 80 ppb 8-hour ozone NAAQS, the State modeled the 2003 cutpoints, not the 2006 cutpoints. We also note that monitored ambient air quality data from 2008 through 2010 reflect that the metro-Denver/NFR area attained the 80 ppb 8-hour ozone NAAQS in 2010 without the implementation of the 2006 cutpoints.[3] In addition, based on preliminary 8-hour ozone data from 2011, the area continues to demonstrate attainment of the 80 ppb 8-hour ozone NAAQS.

Because the 2006 cutpoints have not been necessary for the area to attain the 80 ppb 8-hour ozone NAAQS, we are proposing to approve the State's removal of the 2006 cutpoints from Regulation No. 11.

[1] We note that the State never implemented the 2006 cutpoints. However, EPA approved them as part of Regulation No. 11, and they have been federally enforceable.

[2] A motor vehicle inspection and maintenance (I/M) program is a control measure that is sometimes used in SIPs to reduce emissions of certain air pollutants. Today's cars are dependent on properly functioning emission control systems to keep pollution levels low. I/M programs can identify problem cars and ensure that cars are properly maintained. Through Regulation No. 11, the state of Colorado operates an enhanced I/M program, relying mainly on an IM240 inspection test. The IM240 test is a chassis dynamometer test used for emission testing of light duty vehicles. It is a short, 240 second test representing a 1.96 mile route. Under Regulation No. 11, a vehicle whose emissions exceed the applicable emissions cutpoints during an IM240 emissions test will fail the test and must be repaired and re-inspected. Colorado operates an enhanced IM240 test program in the following counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson (Denver metropolitan area). In addition, the State operates an enhanced program in Larimer and Weld Counties, but as a State-only (not Federally enforceable) requirement.

[3] The State never implemented the 2006 cutpoints.

V. Consideration of Section 110(1) of the Clean Air Act

Section 110(1) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. EPA has concluded that the above-described revision to Regulation No. 11 will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA. This revision to Regulation No. 11 will not adversely affect the approved maintenance plans for Metro-Denver and Longmont for carbon monoxide (see 72 FR 46148, August 17, 2007), Metro-Denver for PM_{10} (see 72 FR 62571, November 6, 2007), or Greeley for carbon monoxide (see 70 FR 48650), or the approved attainment plan for Metro-Denver/NFR for the 1997 8-hour (80 ppb) ozone standard (see 76 FR 47443, August 5, 2011). For each of these areas and pollutants, the State demonstrated maintenance or attainment of the relevant NAAQS assuming either the complete absence of an I/M program or the implementation of the 2003 cutpoints.

VI. Proposed Action

EPA is proposing approval of the revision to Regulation No. 11 that the State of Colorado submitted on August 8, 2006. The revision removes from Regulation No. 11, Part F, section III.A.2, the light duty vehicle emission testing limits that went into effect on January 1, 2006.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, and Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 21, 2011.

James B. Martin,

Regional Administrator, Region 8.

[FR Doc. 2012–458 Filed 1–11–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2011–0849–201153(b); FRL–9617–3]

Approval and Promulgation of Implementation Plans; Georgia; Rome; Fine Particulate Matter 2002 Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the fine particulate matter ($PM_{2.5}$) 2002 base year emissions inventory portion of the State Implementation Plan (SIP) revision submitted by the State of Georgia on October 27, 2009. The emissions inventory is part of the Rome, Georgia $PM_{2.5}$ attainment demonstration that was submitted for the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standards. This action is being taken pursuant to section 110 of the Clean Air Act. In the Rules Section of this **Federal Register**, EPA is approving Georgia's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments.

DATES: Written comments must be received on or before February 13, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2011–0849, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: benjamin.lynorae@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2011–0849,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this

Federal Register for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: December 22, 2011.

Gwendolyn Keyes Fleming,

Regional Administrator, Region 4.

[FR Doc. 2012–347 Filed 1–11–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0876; FRL–9617–9]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, we are proposing to approve South Coast Air Quality Management District (SCAQMD) Rule 317, ''Clean Air Act Non-Attainment Fee,'' as a revision to SCAQMD's portion of the California State Implementation Plan (SIP). Rule 317 is a local rule submitted to address section 185 of the Clean Air Act (CAA or Act). We are proposing that Rule 317, an equivalent alternative program, is not less stringent than the program required by section 185, and, therefore, is approvable, consistent with the principles of section 172(e) of the Act. As part of this action, we are inviting public comment on whether it is appropriate for EPA to consider equivalent alternative programs, and, if so, whether Rule 317 would constitute an approvable equivalent alternative program. We are taking comments on these proposals and plan to follow with a final action.

DATES: Any comments must arrive by *February 13, 2012.*

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0876, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or email. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *http://www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Lily Wong, EPA Region IX, (415) 947–4114, *wong.lily@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. What did the State submit?

On February 4, 2011, SCAQMD adopted Rule 317, ''Clean Air Act Non-attainment Fee,'' to meet the requirements of CAA section 185. On April 22, 2011, the California Air Resources Board (CARB) submitted SCAQMD's Rule 317 to EPA. On May 19, 2011, EPA determined that the submittal met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review. SCAQMD provided supplemental information in a letter dated December 21, 2011.

II. Are there other versions of this rule?

There are no previous versions of Rule 317 in the SIP. Although the SCAQMD adopted an earlier version of Rule 317 on December 5, 2008, that rule was never submitted to EPA for approval as a SIP revision.

III. What action is EPA taking?

EPA is proposing to approve Rule 317 as a revision to SCAQMD's portion of the California SIP. The purpose of Rule 317 is to satisfy the requirements of sections 182 and 185 of the Act by utilizing an equivalency approach consistent with the principles of section 172(e) of the Act. Under Rule 317, SCAQMD will track, calculate, analyze, and report to demonstrate that the requirements of section 185 of the Act have been met. Rule 317 includes: Calculation of CAA non-attainment (section 185) fee obligation, establishment of a ''section 172(e) fee equivalency account,'' an annual demonstration of equivalency, an annual preliminary determination of equivalency, reporting to CARB and EPA, and a backstop provision for failure to achieve equivalency. The ''section 172(e) fee equivalency account'' will include funds from qualified programs that are surplus to the 1-hour ozone SIP and designed to result in direct reductions or facilitate

future reductions of VOC or NO_X emissions.

In this action, EPA is also proposing to approve Rule 317 as an alternative to the program required by section 185 of the Act. We are proposing that SCAQMD's equivalent alternative program is not less stringent than the program required by section 185, and, therefore, is approvable, consistent with the principles of section 172(e) of the Act as explained more fully below. We are taking comments on these proposals and plan to follow with a final action.

IV. Background

Section 185 Fees

Under sections 182(d)(3), (e), (f) and 185 of the Act, states with ozone nonattainment areas classified as Severe or Extreme are required to submit a revision to the SIP that would require major stationary sources of VOC or NO_X to pay a fee for each ton of VOC or NO_X emitted in excess of 80% of baseline emissions.[1] Under section 185(a) of the Act, the SIP revision must provide that the fees be paid if the area to which the SIP revision applies has failed to attain the 1-hour ozone National Ambient Air Quality Standard (NAAQS or standard) by the applicable attainment date. A source's baseline emissions are its actual emissions during the required attainment year. The fee rate is $5,000 per ton in 1990 dollars, which must be adjusted for inflation based on the Consumer Price Index (CPI).

South Coast Air Quality Management District

There are two 1-hour ozone nonattainment areas within the jurisdiction of the SCAQMD: The Los Angeles-South Coast Air Basin Area (South Coast Air Basin) and the Coachella Valley region of Riverside County in the Southeast Desert Modified Air Quality Maintenance Area (Riverside County portion of Southeast Desert Modified AQMA).[2] The South Coast Air Basin is an Extreme nonattainment area for the 1-hour ozone standard; the attainment year is 2010. The Riverside County portion of the Southeast Desert Modified AQMA is a Severe-17 nonattainment area for the 1-hour ozone standard; the attainment year is 2007. Therefore, California was required under sections 182(d)(3), (e) and (f) to develop and submit a SIP revision meeting the requirements of section 185, which are discussed above.

On December 30, 2011, we published a finding that the South Coast Air Basin and the Southeast Desert Modified AQMA failed to attain the 1-hour ozone standard by their applicable attainment dates (76 FR 82133).

Pursuant to California law, the SCAQMD is responsible for developing rules, such as Rule 317, that are intended to meet CAA SIP requirements for the two nonattainment areas described above under SCAQMD jurisdiction. Such rules are then submitted to EPA after adoption by CARB, which is the State agency responsible for SIP matters on behalf of the State of California. On April 22, 2011, CARB submitted Rule 317 to satisfy SCAQMD's obligations under sections 182 and 185 of the Act.

V. What is the legal rationale for equivalent alternative programs?

EPA is proposing that states can meet the section 185 obligation arising from the revoked 1-hour ozone NAAQS through a SIP revision containing either the fee program prescribed in section 185 of the Act, or an equivalent alternative program. As further explained below, EPA is proposing that an alternative program may be acceptable if EPA determines, through notice-and-comment rulemaking, that it is consistent with the principles of section 172(e) of the CAA and is not less stringent than a program prescribed by section 185.[3]

Section 172(e) is an anti-backsliding provision of the CAA that requires EPA to develop regulations to ensure that controls in a nonattainment area are ''not less stringent'' than those that applied to the area before EPA revised a NAAQS to make it less stringent. In the Phase 1 Ozone Implementation Rule for the 1997 ozone NAAQS published on April 30, 2004 (69 FR 23951), EPA determined that although section 172(e) does not directly apply where EPA has strengthened the NAAQS, as it did in 1997, it was reasonable to apply to the transition from the 1-hour NAAQS to the more stringent 1997 8-hour NAAQS, the same anti-backsliding principle that would apply to the relaxation of a standard. Thus, as part of applying the principles in section 172(e) for purposes of the transition from the 1-hour standard to the 1997 8-hour standard, EPA can either require states to retain programs that applied for purposes of the 1-hour standard, or can allow states to adopt equivalent alternative programs, but only if such alternatives are determined through notice-and-comment rulemaking to be ''not less stringent'' than the mandated program. EPA has previously identified three types of alternative programs that could satisfy the section 185 requirement: (i) Those that achieve the same emissions reductions; (ii) those that raise the same amount of revenue and establish a process where the funds would be used to pay for emission reductions that will further improve ozone air quality; and (iii) those that would be equivalent through a combination of both emission reductions and revenues.[4]

We are proposing today to determine through notice-and-comment rulemaking that states can demonstrate an alternative program's equivalency by comparing expected fees and/or emissions reductions directly attributable to application of section 185 to the expected fees, pollution control project funding, and/or emissions reductions from the proposed alternative program. Under an alternative program, states might opt to shift the fee burden from a specific set of major stationary sources to non-major sources, such as owners of mobile sources that also contribute to ozone formation. EPA also believes that alternative programs, if approved as ''not less stringent'' than the section 185 fee program, would encourage one-hour ozone NAAQS nonattainment areas to reach attainment as effectively and expeditiously as a section 185 fee program, if not more so, and therefore satisfy the CAA's goal of attainment and maintenance of the NAAQS.

[1] VOC help produce ground-level ozone and smog, which harm human health and the environment. NO_X helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment.

[2] ''Riverside County portion of Southeast Desert Modified AQMA'' is the same geographic area as ''Riverside County portion of the Salton Sea Air Basin'' and Rule 317 uses the latter terminology.

[3] EPA has previously set forth this reasoning in a memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, to Air Division Directors, ''Guidance on Developing Fee Programs Required by Clean Air Act Section 185 for the 1-hour Ozone NAAQS,'' January 5, 2010 (''Section 185 Guidance Memo''). On July 1, 2011, the DC Circuit Court of Appeals vacated this guidance, on the ground that it was final agency action for which notice-and-comment rulemaking procedures were required. *NRDC* v. *EPA,* No. 10–1056, 2011 WL 2601560, C.A.D.C. 2011. EPA subsequently set forth this reasoning in a rulemaking action concerning an equivalent alternative 185 program submitted as a SIP revision to EPA by the State of California on behalf of the San Joaquin Valley Unified Air Pollution Control District (''SJVUAPCD''). 76 FR 45213 (July 28, 2011). In so doing, we were applying the court's directive to follow the rulemaking requirements set forth in the Administrative Procedures Act to inform consideration of section 185 and equivalent alternative programs. In this action regarding SCAQMD Rule 317, we are again applying the court's directive to follow rulemaking requirements with respect to section 185 and equivalent alternative programs.

[4] These types of programs were identified in our rulemaking action concerning SJVUAPCD's alternative section 185 fee program 76 FR 45213 (July 28, 2011).

While section 185 focuses most directly on assessing emissions fees, we believe it is useful to interpret anti-backsliding requirements for section 185 within the context of the CAA's ozone implementation provisions of subpart 2 (which includes section 185). The subpart 2 provisions are designed to promote reductions of ozone-forming pollutant emissions to levels that achieve attainment of the ozone NAAQS. In this context, to satisfy the anti-backsliding requirements for section 185 associated with the 1-hour NAAQS we believe it is appropriate for states to implement equivalent alternative programs that maintain a focus on achieving further emission reductions, whether that occurs through the incentives created by fees levied on pollution sources or other funding of pollution control projects, or some combination of both. For any alternative program adopted by a state, the state's demonstration that the program is not less stringent should consist of comparing expected fees and/or emission reductions directly attributable to application of section 185 to the expected fees, pollution control project funding, and/or emissions reductions from the proposed alternative program. For a valid demonstration to ensure equivalency, the state's submissions should not underestimate the expected fees and/or emission reductions from the section 185 fee program, nor overestimate the expected fees, pollution control project funding, and/or emission reductions associated with the proposed alternative program.

We also note that the structure established in Subparts 1 and 2 of the CAA recognizes that successful achievement of clean air goals depends in great part on the development by states of clean air plans that that are specifically tailored to the nature of the air pollution sources in each state. The Act recognizes that states are best suited to design plans that will be most effective. Allowing states to put forward an equivalent program under the circumstances that pertain here, and under the authority of 172(e), is consistent with this principle of the Act.

In sum, in order for EPA to approve an alternative program as satisfying the 1-hour ozone section 185 fee program SIP revision requirement, the state must demonstrate that the alternative program is not less stringent than the otherwise applicable section 185 fee program by collecting fees from owner/operators of pollution sources, providing funding for emissions reduction projects, and/or providing direct emissions reductions equal to or exceeding the expected results of the otherwise applicable section 185 fee program. We are inviting public comment on whether it is appropriate for EPA to consider equivalent alternative programs, and, if so, whether Rule 317 would constitute an approvable equivalent alternative program.

VI. What is EPA's analysis of SCAQMD's alternative program?

Summary of SCAQMD's Alternative Program

In today's action, we are proposing to approve SCAQMD Rule 317 as an equivalent alternative program that satisfies the section 185 requirement under the principles of section 172(e). Further information regarding Rule 317 is set forth below and in EPA's Technical Support Document (TSD) for this action.

The purpose of Rule 317 is to satisfy the requirements of section 185 of the Act by utilizing an equivalency approach consistent with the principles of 172(e) of the Act. Under Rule 317, SCAQMD will track, calculate, analyze, and report to demonstrate that the requirements of section 185 of the Act have been met. Rule 317 includes: Calculation of CAA non-attainment (section 185) fee obligation; establishment of a ''section 172(e) fee equivalency account'' to track qualified expenditures on pollution control projects; an annual demonstration of equivalency; an annual preliminary determination of equivalency; reporting to CARB and EPA; and a backstop provision for failure to achieve equivalency.

As described above, there are two 1-hour ozone nonattainment areas within the jurisdiction of the SCAQMD. By letter dated December 21, 2011, SCAQMD clarified that they intend to provide separate equivalency demonstrations for the two non-attainment areas in that the equivalency analyses will compare fee obligations within each non-attainment area to expenditures within the same non-attainment area.

SCAQMD will establish a ''section 172(e) fee equivalency account'' that will be credited with expenditures from qualified programs that meet the criteria in section (c)(1)(A) of Rule 317: (i) Surplus to the 1-hour ozone SIP and approved by the District, CARB, and EPA as being surplus to the SIP; (ii) designed to result in direct VOC or NO_X reductions in SCAQMD, or to facilitate future VOC or NO_X reductions in SCAQMD through vehicle/engine fueling infrastructure or advanced technology development efforts for implementation within the next 10 years, or for other uses approved by EPA; (iii) expenditures occurring only in calendar years subsequent to 2008 from eligible projects; [5] and (iv) only monies actually expended from qualified programs during a calendar year shall be credited. Rule 317 provides that the equivalency account may be pre-funded with expenditures from the programs listed in Attachment A of the rule.[6]

SCAQMD will annually calculate the total amount of major stationary source fees that would have been assessed in the prior calendar year under a direct implementation of section 185 of the Act. A fee is calculated for each major stationary source whose actual emissions of VOC or NO_X exceed 80% of its baseline emissions. The fee rate is $5,000 per ton in 1990 dollars, which must be adjusted for inflation based on the Consumer Price Index (CPI).

While CAA section 185 requires baseline emissions to be based on the lower of the source's actual or allowable [7] emissions during the attainment year, it also allows the use of an alternative period as provided in EPA guidance. Rule 317 specifies that baseline emissions of an existing source in the South Coast Air Basin will be based on an average of the source's actual emissions during fiscal years 2005–06 and 2006–07 (which are not to exceed allowable emissions), and would be programmatically adjusted by SCAQMD to take into account the effects of new requirements or regulations from 2006 to 2010. In the Salton Sea Air Basin, an existing source's baseline emissions are its reported emissions during 2007, the attainment year for the Southeast Desert Modified AQMA. Rule 317 also specifies that, for sources that become subject to the rule after the attainment year, baseline emissions are based on allowable limits in the applicable implementation plan or potential to

[5] By letter dated December 21, 2011, SCAQMD clarified that for the South Coast Air Basin equivalency demonstration, SCAQMD intends only to include expenditures that occurred in calendar years 2010 and forward.

[6] Attachment A of Rule 317 identifies potential sources of funds for the section 172(e) fee equivalency account. These potential funding mechanisms include: Fees from motor vehicles pursuant to AB 118 and AB 27866 and federal grants to fund retrofitting of school buses and trucks.

[7] ''Allowable'' emissions are the amount of emissions that are allowed under the source's permit, or if no such permit has been issued to the source for the attainment year, the amount of emissions allowed under the applicable attainment plan (CAA section 185(b)(2)).

emit, or holdings of RECLAIM Trading Credits.

SCAQMD will annually demonstrate that the funds in the section 172(e) fee equivalency account for the prior year are equal to or greater than the CAA non-attainment (section 185) fee obligation that would have been assessed for the prior year.

SCAQMD will also annually project whether adequate funding is expected to be available in the section 172(e) fee equivalency account in the current year in accordance with the equation in section (c)(4) of the rule. This preliminary determination of equivalency requires the projection to show that the amount of funds in the fee equivalency account are at least 110% of the previous year's fee obligation, which serves as a surrogate for the current year's fee obligation.

SCAQMD will annually report to CARB and EPA on the results of the demonstration of equivalency and preliminary determination of equivalency, as well as information on facilities' fee obligations, programs and expenditures included in the fee equivalency account, and any surplus funding carried over to the subsequent calendar year.

If the annual demonstration of equivalency fails to show sufficient funds in the section 172(e) fee equivalency account for the prior year, or the preliminary determination of equivalency shows that adequate funding may not be available in the current year, then Rule 317 requires the SCAQMD Executive Officer (EO) to submit to the Governing Board within 90 days of the finding a back-stop rule that would require the EO to collect and/or track adequate fees for any shortfall. The Governing Board is required to act on the backstop rule within 120 days of the funding inadequacy finding.

If SCAQMD adopts a backstop rule applicable to major stationary sources, Rule 317 states that the backstop rule would include provisions that allow sources to request an alternate baseline period and multi-site aggregation of baseline and emissions. Rule 317 also states that stationary sources paying such fees in the backstop rule shall receive a credit for annual operating fees and annual operating emission fees paid to SCAQMD.

EPA's TSD has more information about SCAQMD's equivalent alternative program.

How is EPA evaluating SCAQMD's alternative program?

Generally, SIP rules must be enforceable (see section 110(a) of the Act). Guidance and policy documents that we use to evaluate enforceability requirements consistently include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).

2. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

3. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement), 57 FR 55620, November 25, 1992.

4. ''Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency; Section 110: State Implementation Plans,'' EPA, September 23, 1987 Memorandum.

Also, SIP revisions must not interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the Act (CAA section 110(l)).

SCAQMD's equivalent alternative program must also be evaluated against section 185 of the Act, as described above under section III of this document. EPA also developed the following guidance on establishing baselines as allowed by section 185:

5. Memorandum from William Harnett, Director of the Air Quality Policy Division to the Regional Air Division Directors, entitled, ''Guidance on Establishing Emissions Baselines under Section 185 of the Clean Air Act (CAA) for Severe and Extreme Ozone Nonattainment Areas that Fail to Attain the 1-hour Ozone NAAQS by their Attainment Date,'' March 21, 2008.[8]

Does SCAQMD's alternative program meet the evaluation criteria?

As described below, we are proposing to find that SCAQMD's equivalent alternative program is consistent with the relevant policy and guidance regarding enforceability, SIP revisions, and sections 172(e) and 185 of the Act.

One initial step in the equivalency demonstration is to determine the benchmark for comparison, i.e., the amount of fees that would have been collected under direct implementation of section 185. A fee is calculated for each major stationary source whose actual emissions of VOC or NO_X exceed 80% of its baseline emissions. Rule 317 reflects the method for calculation of the fee set out in section 185(b)(1) of the Act.

Section 185 specifies that baseline emissions are the lower of a source's actual or allowable emissions during the attainment year. Section 185 and EPA's March 21, 2008 baseline guidance memorandum provide for determining baseline emissions over a longer period if a source's emissions are irregular, cyclical, or otherwise vary significantly from year to year.

Rule 317 defines baseline emissions for most existing stationary sources in the South Coast Air Basin as an average of actual emissions from two years (fiscal years 2005–2006, and 2006–2007), not to exceed allowable emissions, and programmatically adjusted to account for regulatory effects between 2006 through 2010 for the South Coast Air Basin. SCAQMD's staff report for Rule 317 explains that SCAQMD selected this two-year baseline period as more representative of typical production and emissions because it occurred before the economic recession that began in 2008 and that using 2010 attainment year actual emissions as the baseline year would lock sources to an atypical low production year. SCAQMD provided data on various indicators such as Gross Domestic Product, regional employment, and usage of fuels and coatings and solvents to show the recessionary effects on emissions throughout the area.

By letter dated December 21, 2011, SCAQMD provided source-specific emissions data and analyses that showed that all or almost all sources had emissions that varied from year to year. SCAQMD's letter states that the selection of fiscal years 2005–2006 and 2006–2007 as the baseline period for all major stationary sources results in an alternative baseline amount that is conservative but more representative of typical emissions. SCAQMD explains that under EPA's 2008 baseline guidance, sources are allowed to choose any recent historical 24-month consecutive period, including a period chosen by the source. See 40 CFR 52.21(48). SCAQMD's analyses show that the District's selected baseline period results in a lower baseline overall than would result from a regulatory approach that would allow sources to propose their own baseline. A lower baseline amount is conservative because it establishes a lower threshold for calculating the assessment of section 185 fees. EPA agrees the emissions baseline provisions of Rule 317 are appropriate. EPA's TSD has more information on the alternative baseline.

[8] This guidance can be found at: *http://www.epa.gov/ttn/oarpg/t1/memoranda/20080321_harnett_emissions_basline.pdf.*

Rule 317 requires SCAQMD to establish a ''section 172(e) fee equivalency account'' that will be credited with expenditures from qualified programs that meet the criteria outlined in section (c)(1)(A) of the rule. One criterion is whether the expenditures, which result in emission reductions, are surplus to the 1-hour ozone SIP. The approved 1-hour ozone SIP in the South Coast Air Basin is the 1997 Air Quality Management Plan, as revised in 1999.[9] The approved 1-hour ozone SIP in the Southeast Desert Modified AQMA is the 1994 Air Quality Management Plan.[10]

Surplus reductions are those that are not relied upon in the SIP, *i.e.,* reductions that are not required nor assumed by the SIP to provide for RFP or attainment.[11] At the time of rule adoption, SCAQMD identified three preliminary lists of qualified programs—Rule 317 Attachment A, ''List of Programs Pre-funding Section 172(e) Fee Equivalency Account,'' Attachment B in the staff report, ''List of Potential Section 172(e) Fee Equivalent Account Funding Programs for Post-2011,'' and Attachment C in the staff report, ''List of Potential Future Section 172(e) Fee Equivalent Account (Credit) Programs.''

By letter dated December 21, 2011, SCAQMD updated the lists of qualified programs, which are attached to the letter as Exhibit A ''Qualified Programs and Estimated Actual Expenditures for 2010 and 2011 Pre-funding the Section 172(e) Fee Equivalency Account'' and Exhibit B ''Qualified Programs Providing On-Going Funding for Post-2010 to Section 172(e) Fee Equivalent Account.[12] '' The December 201l letter also elaborates on the bases for the conclusion that listed programs are surplus and meet the criteria at Rule 317(c)(1)(A). EPA has reviewed this documentation and agrees with SCAQMD that the programs previously listed in Attachment A of Rule 317 and Attachments B and C of the staff report and listed as Exhibits A and B to the December 21, 2011 letter are surplus. This determination, with respect to these programs only, addresses section (c)(1)(A)(i) of the rule, which requires EPA's approval that the qualified programs are surplus to the SIP. Future determinations of ''surplus'' may be necessary if SCAQMD relies on programs or expenditures other than those identified in Exhibits A and B of the December 21, 2011 letter to offset section 185 fee obligations.

Rule 317 requires that expenditures from qualified programs result in direct reductions or facilitate future reductions of VOC or NO_X emissions. In contrast, section 185 of the Act requires states to assess fees on stationary sources but does not require that the fees be used for activities beneficial in reducing ozone formation. We believe this requirement in Rule 317 to use the surplus funds for reducing ozone formation will result in further progress toward attainment.

SCAQMD is required to demonstrate equivalency for the previous year's fee obligation in accordance with section (c)(3) of the rule and report the results to CARB and EPA. Equivalency is demonstrated if the funds in the section 172(e) fee equivalency account are equal to or greater than the CAA non-attainment (section 185) fee obligation that would have been assessed for the prior year. The rule includes the correct equation to demonstrate equivalency.

If equivalency is demonstrated and there are ''unused'' expenditures that exceeded the amount of the fee obligations, those ''unused'' funds are carried forward into the following assessment year. Since the expenditures have been determined to be surplus and there have been no other changes to the SIP for the 1-hour ozone standard, carrying these funds forward into the following year is acceptable because they would remain surplus. Also, if the expenditure occurred in a year prior to its use in an equivalency demonstration, the emission reductions would occur earlier, which is environmentally beneficial.

As an added measure to demonstrate equivalency, Rule 317 also has a forward-looking measure to estimate whether equivalency will likely be demonstrated. SCAQMD is required to preliminarily determine if expenditures in the section 172(e) fee equivalency account are at least 110% of the previous year's fee obligation, which serves as a surrogate for the current year's fee obligation. If the preliminary determination does not project equivalency in accordance with the rule, that would trigger the requirement for SCAQMD to adopt a backstop rule in advance of the actual equivalency demonstration. We believe this measure provides an additional checkpoint for ensuring equivalency.

If SCAQMD fails to either demonstrate equivalency or the preliminary determination of equivalency does not show expenditures in the account at least equal to 110% of the estimated fee obligation, Rule 317 requires the EO to submit, within 90 days of the determination, a backstop measure to the Governing Board. Rule 317 also requires the Governing Board to act on the measure within 120 days of the determination, to either collect and/or track adequate fees to address the shortfall.

Rule 317 identifies certain elements to be included in a major stationary source backstop rule. If the backstop rule requires major stationary sources to pay fees, Rule 317 states that the backstop rule would allow sources to receive a credit for fees paid for operating fees and annual operating emissions fees. Title V regulations at 40 CFR 70 require the assessment of fees sufficient to cover Title V program costs. While any backstop rule would need to ensure that this fee credit provision would not adversely affect funds needed to cover Title V program costs, this issue ultimately needs to be addressed in the rulemaking process for the backstop rule.

Lastly, Rule 317 applies to SCAQMD and requires SCAQMD to follow the procedures to make the equivalency demonstration and to adopt a backstop rule to make up any shortfall if equivalency is not initially demonstrated. These provisions, if approved into the SIP, would be enforceable against SCAQMD.

In conclusion, Rule 317 requires SCAQMD to demonstrate on an annual basis, in accordance with the principles of section 172(e), that its alternative CAA section 185 program is not less stringent than the program prescribed by CAA section 185. EPA therefore proposes to approve Rule 317 as satisfying the 1-hour ozone section 185 fee program requirements. The TSD has more information on our evaluation.

VII. Proposed Action

Because EPA believes SCAQMD Rule 317 fulfills all relevant requirements, we are proposing to approve Rule 317 as a SIP revision under section 110(k)(3) of the Act. EPA believes that SCAQMD's equivalent alternative program is not less stringent than the requirements set forth in section 185 of the Act; therefore

[9] This SIP was approved by EPA on April 10, 2000 (see 65 FR 18903).

[10] This SIP was approved by EPA on January 8, 1997 (see 62 FR 1150).

[11] ''Surplus'' is discussed in EPA's guidance, ''*Improving Air Quality with Economic Incentive Programs''* published on January 2001 (EPA–452/R–01–001) and available at *http://www.epa.gov/ttn/oarpg/t1/memoranda/eipfin.pdf.*

[12] When SCAQMD adopted Rule 317, the programs listed in Attachment C were identified as ''potential'' programs for inclusion in the 172(e) equivalency account because SCAQMD did not have sufficient time to make a surplus determination. Subsequent to rule adoption, SCAQMD concluded in their letter dated December 21, 2011 that the programs listed in Attachment C of the staff report are also surplus. Exhibit B of SCAQMD's December 21, 2011 letter included all programs that were previously included in Attachments B and C of the February 2011 staff report.

we are proposing to approve SCAQMD's alternative program as fulfilling the requirements of sections 182, 185 and 172(e) of the Act. If finalized as proposed, this action would permanently terminate all CAA Section 110(c) Federal Implementation Plan (FIP) implications associated with our January 5, 2010 Finding of Failure to Submit a SIP revision to satisfy section 185 requirements for the SCAQMD (75 FR 232). We will accept comments from the public on these proposals for the next 30 days.

VIII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 4, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2012–447 Filed 1–11–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2011–0105; 4500030113]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Humboldt Marten as Endangered or Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Humboldt marten (*Martes americana humboldtensis*) as endangered or threatened and designate critical habitat under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific or commercial information indicating that listing the Humboldt marten may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of the Humboldt marten to determine if listing is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding the Humboldt marten. Based on the status review, we will issue a 12-month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct this review, we request that we receive information on or before March 12, 2012. The deadline for submitting an electronic comment using the Federal eRulemaking Portal (see **ADDRESSES** section, below) is 11:59 p.m. Eastern Time on this date. After March 12, 2012, you must submit information directly to the Field Office (see **FOR FURTHER INFORMATION CONTACT** section below). Please note that we might not be able to address or incorporate information that we receive after the above requested date.

ADDRESSES: You may submit information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Enter Keyword or ID box, enter Docket No. FWS–R8–ES–2011–0105, which is the docket number for this action. Then click on the Search button. You may submit a comment by clicking on ''Send a Comment or Submission.''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–ES–2011–0105; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will post all information we receive on *http://www.regulations.gov.* This generally means that we will post any personal identifying information you provide us (see the *Request for Information* section below for more details).

FOR FURTHER INFORMATION CONTACT: Nancy J. Finley, Field Supervisor; by mail at Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, CA 95521; by telephone at (707) 822–7201; or by facsimile at (707) 822–8411. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly review the status of the species (status review). For the

status review to be complete and based on the best available scientific and commercial information, we request information on the Humboldt marten from governmental agencies, Native American tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The Humboldt marten's biology, range, and population trends, including:

(a) Habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the Humboldt marten, its habitat, or both.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of Humboldt marten habitat or its range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

If, after the status review, we determine that listing the Humboldt marten is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act) under section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, we also request data and information on:

(1) What may constitute ''physical or biological features essential to the conservation of the species,'' within the geographical range currently occupied by the species;

(2) Where these features are currently found;

(3) Whether any of these features may require special management considerations or protection;

(4) Specific areas outside the geographical area occupied by the species that are ''essential for the conservation of the species;''and

(5) What, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered to provide the best information to support a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Information and supporting documentation that we received and used in preparing this finding is available for you to review at *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Arcata Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section, above).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly conduct a species status review, which we subsequently summarize in our 12-month finding.

Petition History

On September 28, 2010, we received a petition dated September 28, 2010, from the Center for Biological Diversity (CBD) and the Environmental Protection Information Center (EPIC), requesting that the Humboldt marten (*Martes americana humboldtensis*), a subspecies of the American marten, be listed as endangered or threatened and that critical habitat be designated in accordance with the Act. The document received clearly identified itself as a petition and included the requisite identification information for the petitioners, as required by 50 CFR 424.14(a). In a letter to the petitioners dated October 22, 2010, we responded that we reviewed the information presented in the petition and determined that issuing an emergency regulation temporarily listing the species under section 4(b)(7) of the Act was not warranted. This finding addresses the petition.

Listable Entity Evaluation

Under section 3(16) of the Act, we may consider for listing any species or subspecies of fish, wildlife, or plants, or any distinct population segment of vertebrate fish or wildlife which interbreeds when mature. Such entities are considered eligible for listing under the Act (and are, therefore, referred to as ''listable entities'') should they be determined to meet the definition of an endangered or threatened species. The petition states that genetics research indicates that the currently recognized species American marten (*Martes americana*) should be divided into two species—*M. americana* and *M. caurina* (CBD and EPIC 2010, p. 6). The petition indicates that if marten taxonomy is changed in the near future, the currently recognized subspecies Humboldt marten (*M. americana humboldtensis*) would likely be designated a subspecies of the newly designated species, *M. caurina,* and thus would likely be renamed *M. caurina humboldtensis.* Therefore, the petition requested listing as endangered or threatened one of the following: (1) The currently recognized Humboldt marten subspecies, *M. americana humboldtensis;* or (2) the Humboldt marten subspecies that may be redesignated as *M. caurina humboldtensis;* or (3) the Humboldt marten as a distinct population segment (DPS) of *M. caurina* (CBD and EPIC 2010, pp. 2, 6).

Historically, marten populations in coastal Oregon have not been included within the range of the Humboldt marten (see *Taxonomy and Distribution* section, below). The petition indicates, however, that because recent genetics research indicates that populations of American martens in coastal Oregon (currently *Martes americana caurina*) are more closely related to *Martes americana humboldtensis* in coastal northern California than to *Martes americana caurina* populations in the Cascade Range of Oregon (Slauson *et al.* 2009a, pp. 1339–1340), the petitioned and listable entity should include all marten populations in coastal northern California and coastal Oregon (CBD and EPIC 2010, pp. 7–10).

The standard of review for a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted.'' We determine that the petition has met the threshold for review in its characterization of currently designated American marten (*M. americana*) populations in coastal northern California and coastal Oregon as a potential listable entity. In our status review, we will thoroughly review all information relevant to the taxonomic status of Humboldt martens. For the purposes of this 90-day finding, the common name Humboldt marten refers to currently described American marten (*M. americana*) populations in coastal northern California and coastal Oregon, based on the rationale provided in the petition (CBD and EPIC 2010, pp. 2, 6–8, 10) and research by Slauson *et al.* (2009a, pp. 1339–1340).

Species Information

Taxonomy and Distribution

The Humboldt marten (*Martes americana humboldtensis*) is a subspecies of the American marten and was first described by Grinnell and Dixon (1926, p. 411). The Humboldt marten is classified in the mammalian order Carnivora, family Mustelidae (weasels, otters, badgers), and subfamily Mustelinae (martens, fisher, wolverine, weasels). Clarke *et al.* (1987, p. 1) recognized eight subspecies of the American marten; Wilson and Reeder (2005, p. 608) recognized 12 subspecies; and Hall and Kelson (1959, p. 900) and Hall (1981, pp. 981–985) recognized 14 subspecies. Differences between the subspecies are based on morphological and pelage characteristics (Hall and Kelson 1959, p. 900; Hall 1981, pp. 983–984) or cranial characters and fossil history (Clarke *et al.* 1987, p. 1). The Humboldt marten is recognized as a distinct subspecies of the American marten by all of the aforementioned authors.

The American marten occurs throughout northern North America, reaching its southjrnmost extent in the Sierra Nevada of California and the southern Rocky Mountains of New Mexico (Gibilisco 1994, p. 66). The historical range of the Humboldt marten is based on the catch of licensed trappers in California for the 5-year period 1919–1924 (Grinnell and Dixon 1926, p. 415), and includes coastal northern California, throughout the coast redwood (*Sequoia sempervirens*) zone from the Oregon border south to Sonoma County (Grinnell and Dixon 1926, p. 415; Grinnell 1933, p. 100; Grinnell *et al.* 1937, p. 209). Historically, *M. a. caurina* has been recognized to occur north of the coast redwood zone in western Oregon, Washington, and British Columbia (Bailey 1936, p. 296; Hall 1981, p. 983; Zielinski *et al.* 2001, p. 479).

In northwestern California, the Klamath River separates the historical range of the Humboldt marten from the range of the Sierra Nevada marten (*M. a. sierrae*), which occurs from the Salmon-Trinity Mountains in interior northwestern California, east to the Cascades, and south throughout the Sierra Nevada (Hall 1981, p. 983; Zielinski *et al.* 2001, p. 479). Slauson and Zielinski (2004, p. 62) suggest that the xeric forest types in the river's canyon may act as a physical barrier between these two subspecies.

In 2009, Slauson *et al.* (2009a, p. 1338) compared mitochondrial DNA sequence diversity of martens from extant marten populations within the described ranges of *M. a. humboldtensis, M. a. caurina,* and *M. a. sierrae,* with a 1927 museum specimen of *M. a. humboldtensis.* Martens from coastal northern California share a haplotype with the 1927 museum specimen, supporting the hypothesis that the existing population in coastal northern California represents descendants of the historical population of Humboldt martens described by Grinnell and Dixon in 1926 (Slauson *et al.* 2009a, p. 1337). However, this same haplotype also occurs in coastal Oregon populations of *M. a. caurina,* but is absent from the Oregon Cascades population of *M. a. caurina* and from *M. a. sierrae,* indicating that martens of coastal Oregon are genetically more similar to martens from coastal northern California than they are to martens in the Oregon Cascades (Slauson *et al.* 2009a, p. 1340). The results further suggest that the historically defined range boundary between *M. a. humboldtensis* and *M. a. caurina* at the Oregon-California border may not be valid, and that coastal Oregon martens are part of the same taxonomic group as Humboldt martens in coastal northern California (Slauson *et al.* 2009a, p. 1340). Slauson *et al.* (2009a, p. 1340) concluded that, even though the coastal northern California and coastal Oregon marten populations share a common haplotype, due to small sample sizes, additional genetic analyses are necessary to confirm the genetic relationship. Slauson *et al.* (2009a, p. 1337) noted that there are no known contemporary or historical biogeographic barriers to prevent north-south movement of martens between coastal northern California and coastal Oregon. Therefore, a genetic relationship between coastal marten populations in northern California and Oregon would not be unexpected. As described above in *Listable Entity Evaluation,* for the purposes of this 90-day finding, we conclude that substantial information was provided in the petition indicating that *M. americana* populations in coastal northern California and coastal Oregon may constitute a valid listable entity. We will evaluate all relevant information on genetics and taxonomy in our status review.

Population Status

Zielinski and Golightly (1996) reviewed all published and unpublished historical information on the Humboldt marten, and the results of contemporary (1989–1995) field surveys conducted within its historical range, to determine the status of the subspecies in the redwood zone of California (redwoods also occur in adjacent Curry County, Oregon). They concluded that the marten population in the northern Coast Ranges of California significantly declined during the 20th century and that the last verifiable record was 50 years old, suggesting the subspecies was very rare, if not extinct. However, in 1996 and 1997, martens were detected at two survey stations in northwestern California on the Six Rivers National Forest (Zielinski *et al.* 1998, p. 1). These 1996–1997 presence-absence marten surveys were conducted within presumed suitable habitat, throughout the historical range of the Humboldt marten in northwestern California as well as in extreme southern coastal Oregon. Besides the marten detections in northwestern California, martens were also detected at survey stations within 3 of the 19 sample units placed in southern coastal Oregon (Zielinski *et al.* 1998, p. 2). The southern-most Oregon detection is over 50 miles (mi)

(80 kilometers (km)) from the nearest California detection. Much of the habitat in this intervening area is suitable for martens, but presumably unoccupied as of the late 1990s.

The coastal northern California marten population rediscovered in 1996 and 1997 is located in the north-central portion of the described range for *M. a. humboldtensis* (Grinnell and Dixon 1926, p. 413; Slauson *et al.* 2009a, p. 1338). Based on results of a 2000–2001 grid-based survey of the single marten population rediscovered in coastal northern California in 1996, Slauson *et al.* (2009b, p. 13) concluded that the entire Humboldt marten population in California likely consists of fewer than 100 individuals. The Humboldt marten appears to have been extirpated from greater than 95 percent of the range it occupied in California in the early 1900s (Grinnell *et al.* 1937, p. 209), with the single known extant population occupying an estimated area of only 170,000 acres (ac) (68,797 hectares (ha)) (Service 2010, p. 34). Further, the Humboldt marten population in California is estimated to have undergone a 42 percent decline in occupancy between grid-based surveys conducted in 2000–2001 and 2008 (Slauson *et al.* 2009b, p. 10).

Martens in coastal Oregon are currently known from only two disjunct populations—one in central coastal Oregon and one in southern coastal Oregon—both of which are believed to be in decline based mainly on a reduction in the number of martens trapped and anecdotal observations over time (Zielinski *et al.* 2001, p. 478; Slauson and Zielinski 2009, p. 36). No systematic grid-based surveys have been conducted on, nor population estimates made for, the two populations of martens in coastal Oregon. Concerns about the viability of the two known marten populations in coastal Oregon have been expressed (Slauson *et al.* 2009a, p. 1340).

Published literature on the Humboldt marten largely deals with distribution, habitat selection, home range, diet, and genetics. Little is known about Humboldt marten reproductive biology, demographics, disease, or predation. Where data specific to the Humboldt marten are lacking, we present published information for other American marten subspecies, with the supposition that all subspecies of the American marten share certain characteristics and behaviors.

Biology

The American marten has a long, slender body with relatively large rounded ears, short limbs, and bushy tail (Clark *et al.* 1987, p. 1). American martens have triangular faces with muzzles less pointed than those of foxes. The tail constitutes about one-third of the total body length (Powell *et al.* 2003, p. 636). Each well-furred paw includes five toes (Powell *et al.* 2003, p. 636). Total length of American martens is between 19.7 and 26.8 inches (in) (50 and 68 centimeters (cm)) and adults weigh 1.1 to 3.1 pounds (lb) (0.5 to 1.4 kilograms (kg)), depending on sex and subspecies (Buskirk and McDonald 1989, p. 999); males are 20 to 40 percent larger than females (Buskirk and Zielinski 1997, p. 17). The color of the long, silky, dense fur ranges from pale yellowish buff to tawny brown to almost black (Clark *et al.* 1987, p. 1). The color of the head is usually lighter than the body, and the legs and tail are darker (Clark *et al.* 1987, p. 1).

Compared to the Sierra Nevada marten, the other subspecies of American marten that occurs in California, the Humboldt marten is reported to be darker, with a richer golden tone, and to have less orange and yellow in the throat patch, a smaller skull (Grinnell and Dixon 1926, p. 411), and smaller and less crowded premolars and molars (Buskirk and Zielinski 1997, p. 17). Grinnell *et al.* (1937, p. 207) added that the Humboldt marten had ''* * * far less orange-yellow color on the throat and chest, and the usual area of this color is much broken up by coarse spots and marblings of body brown.'' Hagmeier (1961, p. 124) describes the Humboldt marten as a very small marten, perhaps the smallest subspecies of American marten.

Sexual maturity for American martens occurs by 1 year of age, but effective breeding may not occur before 2 years of age (Powell *et al.* 2003, p. 638). Mating occurs in July or August and the gestation period varies from 220 to 276 days (Strickland *et al.* 1982, p. 602). Birth occurs in late March or April, due to delayed implantation in which the embryos remain in a state of arrested development (Strickland *et al.* 1982, p. 602). Kits are completely dependent at birth and weaned at about 42 days (Buskirk and Ruggiero 1994, p. 17). The male apparently takes no part in rearing the young, which disperse in late summer or autumn (Strickland *et al.* 1982, p. 603). American martens produce an average of slightly less than three young per female with one litter per year (Strickland *et al.* 1982, p. 602). For a mammal of their size, American martens have relatively low reproductive rates, but are long-lived (up to 15 years in captivity and 14.5 years in the wild) (Strickland and Douglas 1987, p. 535), suggesting a relatively slow potential recovery rate from population-level impacts (Buskirk and Ruggiero 1994, p. 16).

Slauson and Zielinski (2007a, p. 55) characterized the diet of Humboldt martens by scat analysis and found that mammals (in 93 percent of scats) and berries (in 85 percent of scats) were the most frequently occurring items, followed by birds (in 21 percent of scats), insects (in 20 percent of scats), and reptiles (in 7 percent of scats). Sciurid rodents (especially *Tamias* species (spp.)) and Murid voles (*Clethrionomys californicus* and *Arborimus* spp.) were the most common mammal species found in Humboldt marten scats (Slauson and Zielinski 2007a, p. 55). The frequency of berries in the diet of the Humboldt marten was the highest reported in diet studies of the American marten; the frequency of birds was also among the highest reported (Slauson and Zielinski 2007a, p. 55).

Strickland *et al.* (1982, p. 607) summarized reports of American martens being preyed upon by coyotes (*Canis latrans*), fishers (*Martes pennanti*), red foxes (*Vulpes vulpes*), cougars (*Puma concolor*), eagles (*Aquila chrysaetos* and *Haliaeetus leucocephalus*), and great horned owls (*Bubo virginianus*). Bull and Heater (2001, p. 3), in their northeastern Oregon study area, documented 18 American martens killed by predators: 8 by bobcats (*Lynx rufus*), 4 by raptors, 4 by other American martens, and 2 by coyotes.

Slauson and Zielinski (2006, p. 65) estimated seasonal (summer–fall) home range size for Humboldt martens in California using the 100 percent minimum convex polygon method (a polygon created by drawing a line connecting the outer locations). Adult male home ranges averaged 1,322 ac (535 ha); the home range for a single adult female with one kit was 315 ac (127 ha). Juvenile female home ranges averaged 1,491 ac (603 ha); the single juvenile male home range was 453 ac (183 ha).

Habitat

Historical records of the distribution of Humboldt martens in California suggest that the subspecies was closely tied to coastal old-growth redwood forests (Slauson *et al.* 2003, p. 3). However, the one known remnant Humboldt marten population in California occurs in the north-central portion of the described range in an area dominated by Douglas-fir (*Pseudotsuga menzesii*) and tanoak (*Lithocarpus densiflora*) forest associations (Slauson *et al.* 2007, p. 459). This population uses

two structurally distinct, fog-influenced forest types, one on serpentine (a mineral or rock consisting of a hydrous magnesium silicate and usually having a dull green color and often a mottled appearance) soils and one on more productive non-serpentine soils (Slauson 2003, p. 59; Slauson *et al.* 2009b, p. 3). The non-serpentine habitats contain old-growth Douglas-fir forests, and the serpentine types contain mixed conifer forests that include Douglas-fir, sugar pine (*Pinus lambertiana*), western white pine (*P. monticola*), and lodgepole pine (*P. contorta*) (Slauson *et al.* 2009b, p. 3).

At the home range scale, Humboldt martens in California select the largest available patch sizes of old-growth, old-growth and late-mature (*i.e.,* late-successional), and serpentine habitat (Slauson *et al.* 2007, p. 466). Slauson *et al.* (2009b, p. 12) found that the biggest difference between sites in California with stable Humboldt marten occupancy versus unstable occupancy is patch size of old-growth forest, with sites with more stable Humboldt marten occupancy associated with larger patches of old-growth forest. The probability that a Humboldt marten is detected increases as the following home range characteristics increase in size: largest contiguous patch of late-successional forest; total amount of late-successional forest; and total area of serpentine habitat (Slauson 2003, p. 67). In non-serpentine habitats, conifer-dominated, late-successional stands with dense shrub cover in patches greater than or equal to 445 ac (180 ha) are estimated to be a minimum criterion to identify potential Humboldt marten home range areas (Slauson 2003, p. 70).

Compared to martens in the Sierra Nevada and Cascade mountains, Humboldt martens occupy low-elevation areas with little or no snowfall and select forest habitats with some distinctly different features, such as dense, extensive shrub cover (Slauson *et al.* 2009b, p. 3). Serpentine habitats occupied by Humboldt martens have open tree canopies, dense shrub cover, and an abundance of boulder piles, while non-serpentine sites have closed, multi-layered tree canopies, dense shrub cover, and older age-class stands (Slauson 2003, p. 59). Serpentine sites sometimes lack trees, suggesting that dense shrub layers may provide the necessary overhead cover (Slauson 2003, pp. 60–61). In addition, prey species, such as chipmunks (*Tamias* spp.) and golden-mantled ground squirrels (*Spermophilus lateralis*), may use boulder-sized surface rocks for escape cover in serpentine sites where trees are sparse (Slauson 2003, p. 61). Recent Humboldt marten population monitoring suggests that serpentine areas may represent lower quality habitat than late-successional Douglas-fir forest (Slauson *et al.* 2009b, p. 12). In non-serpentine habitats, Humboldt martens use old-growth stands much more than expected based on availability, use late-mature stands commensurate with availability, and make little or no use of all other seral stages (Slauson *et al.* 2007, p. 462). All earlier seral stages are selected against, probably because of the lack of one or more key structural features (Slauson 2003, p. 62). Dense shrub cover is the most consistent habitat feature at sites selected by Humboldt martens in both serpentine and non-serpentine habitats (Slauson *et al.* 2007, p. 465). Humboldt martens show the strongest selection for conifer stands with greater than 80 percent shrub cover and select against stands with less than 60 percent shrub cover (Slauson and Zielinski 2007b, p. 242). Plant species dominating the shrub layers are shade-tolerant, long-lived, mast- and berry-producing species, including salal (*Gaultheria shallon*), evergreen huckleberry (*Vaccinium ovatum*), Pacific rhododendron (*Rhododendron macrophyllum*), and shrub oaks (huckleberry oak (*Quercus vaccinifolia*) and bush tanoak (*Lithocarpus densiflorus* var. *echinoides*)) (Slauson and Zielinski 2009, p. 42). In contrast, Humboldt martens do not use disturbance-associated species of shrubs, such as *Ceanothus* spp. (Slauson and Zielinski 2009, p. 42). Dense stands of mature shrubs provide refuge from predators, cover for prey species, and mast (berries and acorns) for prey species and Humboldt martens, and such stands may also deter larger-bodied competitors, such as fisher and gray fox (*Urocyon cinereoargenteus*), by limiting their foraging abilities (Slauson and Zielinski 2009, p. 42). Shrubs also contribute to the formation of some resting locations and resting structures (Slauson and Zielinski 2009, p. 42).

During the late summer and fall, Humboldt martens in California used cavities, den chambers, and broken tops of standing dead trees for 87 percent of their resting locations, and branch platforms, ground sites, and basal hollows for the remainder of their resting locations (Slauson and Zielinski 2009, p. 39). Large snags were the most frequently used resting structure with mean diameter-at-breast-height (dbh) for conifers of 36.6 in (93 cm) (Slauson and Zielinski 2009, p. 40). Conifer logs used as resting structures had a mean diameter of 29.5 in (75 cm) (Slauson and Zielinski 2009, p. 40). Forty-two percent of the resting structures used in serpentine habitats were located in rock and shrub clumps (Slauson and Zielinski 2009, p. 40). All resting sites in serpentine and non-serpentine habitats had dense shrub cover (Slauson and Zielinski 2009, p. 42).

Availability of denning habitat is essential to successful recruitment and persistence of American marten populations (Ruggiero *et al.* 1998, p. 663). American marten natal dens, used by mothers and neonatal young, are typically located in cavities in very large logs, snags, or live trees, while maternal dens, used by mothers and older but still dependent young, tend to be in less specialized structures similar to resting sites (Ruggiero *et al.* 1998, p. 663). Slauson and Zielinski (2009, p. 40) observed one adult female Humboldt marten with a single kit at three maternal den structures: (1) A 26-in (66-cm) dbh live chinquapin (*Chrysolepis chrysophylla*), (2) the broken top of a 44.5-in (113-cm) dbh live Douglas-fir, and (3) in a 45.3-in (115-cm) dbh Douglas-fir snag.

Evaluation of Information for This Finding

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR part 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine how significant a threat it is. If the threat is significant, it may drive or contribute to the risk of extinction of the species,

such that the species may warrant listing as endangered or threatened as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively may not be sufficient to compel a finding that listing may be warranted. The information must contain evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of endangered or threatened under the Act.

In making this 90-day finding, we evaluated whether information regarding threats to the Humboldt marten, as presented in the petition and in other information available in our files, is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below.

A. The Present or Threatened Destruction, Modification, or Curtailment of Habitat or Range

The petition states that the primary cause of population decline and extirpation of martens in coastal northern California and coastal Oregon is loss of old-growth coniferous forest habitat due to logging (CBD and EPIC 2010, p. 20). According to the petition, logging threatens Humboldt marten populations because martens require large areas of unfragmented, old-growth forest to survive and because logging reduces the amount of available habitat and key Humboldt marten habitat structural elements, such as large standing and dead conifers, down woody debris, and a dense understory of shade-tolerant shrubs (CBD and EPIC 2010, pp. 20–23).

Zielinski *et al.* (2001, p. 487) postulated that timber harvest in the redwood region was the most plausible reason for the continued absence of Humboldt martens from most of the coastal range of northwestern California. Zielinski *et al.* (2001, p. 487) concluded that because martens typically are associated with old forests with a diversity of large structural features, it is likely that the intensity of timber harvest, especially on private lands, has reduced the habitat value over much of the coastal northern California region. Large areas of the Humboldt marten's range in California and Oregon are located on private commercial timberlands (Zielinski *et al.* 2001, pp. 478, 484; CBD and EPIC 2010, pp. 23, 32). Most of the areas within the Humboldt marten's range in California and Oregon not located on private lands are located on U.S. Forest Service (Forest Service) lands, but timber harvesting occurs on most of these Forest Service lands (CBD and EPIC 2010, pp. 23, 29–32).

The petition also states that over the long-term, wildfire plays a role in developing the habitat components on which martens depend, but because the Humboldt marten's habitat has been so severely reduced by logging, wildfires are now a threat to the subspecies (CBD and EPIC 2010, p. 24). Slauson and Zielinski (2004, p. 63) reported that, due to the subspecies' critically low population size and restricted range in northwestern California, fire threatens the Humboldt marten with short-term loss and fragmentation of suitable habitat. Fires in 1998 and 2008 burned approximately 28 percent of the range currently occupied by Humboldt marten in northwestern California (Service 2010, p. 19). The Biscuit Fire, one of Oregon's largest fires in recorded history, burned a total area of approximately 500,000 ac (202,343 ha) (Forest Service 2009), part of which overlapped the range of the southernmost population of Humboldt marten in coastal Oregon. Fifty percent of the total burn area burned very hot, with more than 75 percent of the vegetation killed (Forest Service 2009). Post-fire site visits to some of the areas burned in northwestern California in 2008 showed that the dense shrub understory was removed, likely reducing the suitability and increasing fragmentation of these areas for the Humboldt marten over the short term (Slauson *et al.* 2009b, p. 11). In the cool, moist coastal forests of northern California, fires pose a relatively low risk to the Humboldt marten and its habitat. However, the habitat of the current Humboldt marten population in northwestern California occurs primarily in the relatively warm and dry Douglas-fir-tanoak communities farther inland and at higher elevations and, thus, is more vulnerable to lightning-ignited fires. Further, even low-intensity fires can remove the dense shrub understory that is important to Humboldt martens, reducing habitat quality and increasing fragmentation of suitable habitat.

The petition states that recreational activities, including off-highway vehicles, snowmobiles, dirt bikes, and camping could degrade marten habitat, interfere with marten behavior, and cause martens to shift to less suitable habitat (CBD and EPIC 2010, p. 24). The petition recognizes that threats posed to Humboldt marten populations by recreation are unknown, and that due to the remoteness of Humboldt marten habitat and dense shrub cover preferred by the subspecies, the threat posed by recreation is likely low (CBD and EPIC 2010, p. 25). While certain recreational activities may have localized impacts on marten habitat, information in the petition and in our files does not indicate that recreational activities are having population-level impacts that threaten the Humboldt marten.

Summary for Factor A

In summary, we find that the information provided in the petition, as well as other information readily available in our files, presents substantial scientific or commercial information indicating that the petitioned action may be warranted due to the present or threatened destruction, modification, or curtailment of the Humboldt marten's habitat or range from timber harvesting and fire. We will review the possible effects of these threats to Humboldt marten more thoroughly in our status review.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petition states that historical trapping was the primary contributor to the decline of martens in California, including the portions of Humboldt, Del Norte, and Siskiyou Counties where the small extant population of the Humboldt marten occurs (CBD and EPIC 2010, p. 25). In 1946, the California Fish and Game Commission closed the marten trapping season in all or parts of Del Norte, Humboldt, Siskiyou, and Trinity Counties due to declining harvests (Twining and Hensley 1947, p. 136). However, Humboldt marten populations in coastal northern California have not recovered, despite decades of protection from trapping (Slauson and Zielinski 2004, p. 61).

While trapping of martens as furbearers in California is no longer legal, the petition states that the threat posed to Humboldt martens by accidental capture and poaching in California is magnified by other threats such as small population size, population isolation, and habitat fragmentation from logging and fire (CBD and EPIC 2010, p. 25). In California, it is legal to trap other mammals that may occur in Humboldt marten habitat, including bobcats and gray fox (California Code of Regulations, Title 14, Sections 461 and 478), and Humboldt martens may be captured incidentally in traps set for these species. Body-gripping traps (such as steel-jawed leghold, padded leghold,

conibear, and snares) were banned in California in 1998 (California Fish and Game Code Section 3003.1). Only non-body-gripping traps, such as cage and box live traps, are legal in California. No information was provided in the petition, nor is any information available in our files, to determine the extent of incidental trapping-related injury or mortality from non-body-gripping traps. However, the use of box or cage live traps suggests that, if trapped, Humboldt martens are more likely to be released alive and unharmed than if body-gripping or other lethal trap types were allowed. Due to the remote location of habitat occupied by the Humboldt marten and the above restrictions, current mortalities and injuries from incidental capture of Humboldt martens in northwestern California are likely rare.

Additionally, current scientific survey techniques use nonlethal methods, such as track-plates, camera stations, and live traps, and are thus not likely to result in population-level impacts to the Humboldt marten. While injury from accidental capture and poaching may affect individual Humboldt martens in California, neither information in the petition nor information in our files indicates that accidental capture and poaching in California are likely to have a population-level effect or threaten the Humboldt marten.

Martens are still legally trapped as furbearers in Oregon, and the petition states that trapping remains a threat to martens in coastal Oregon (CBD and EPIC 2010, p. 25). The petition states that the threat posed to Humboldt martens by legal trapping in Oregon is magnified by other threats such as small population size, population isolation, and habitat fragmentation from logging and fire (CBD and EPIC 2010, p. 25). Information in the petition indicates that martens can be trapped throughout Oregon between November 1 and January 31 with the purchase of a furtakers' license (CBD and EPIC 2010, p. 25). Although trapping mortality of martens is a potential concern because marten populations in coastal Oregon are considered small and isolated (see Population Status section), most martens trapped in Oregon are taken from the Cascade Range and Blue Mountains, and trapping harvest of martens in the Oregon Coast Range is rare (Oregon Department of Fish and Wildlife 2010). We therefore conclude that information presented in the petition and available in our files does not indicate that furbearer trapping in Oregon is a threat to Humboldt marten.

Summary for Factor B

In summary, we find that the information provided in the petition, as well as other information readily available in our files, does not present substantial scientific or commercial information indicating that the the petitioned action may be warranted due to overutilization. However, we will review the possible effects of furbearer trapping in Oregon on Humboldt marten more thoroughly in our status review.

C. Disease or Predation

Disease

The petition recognizes that disease in the Humboldt marten has not been studied, but states that the Humboldt marten is potentially threatened by disease given the subspecies' extremely small population size (CBD and EPIC 2010, p. 26). Numerous pathogens are known to cause severe disease in mustelids (Brown *et al.* 2008, pp. 5–6), but disease exposure in the Humboldt marten has not been studied. Strickland *et al.* (1982, p. 607) noted that American martens in their study area in central Ontario, Canada, tested positive for toxoplasmosis, Aleutian disease (a carnivore parvovirus), and leptospirosis; however, none of these was known to be a significant mortality factor. Brown *et al.* (2008) determined rates of pathogen exposure for the congeneric (member of the same genus, *Martes*) fisher in northwestern California on the Hoopa Valley Indian Reservation—located less than 6.2 mi (10 km) south of the nearest Humboldt marten verified detection—and demonstrated that fishers were exposed to several serious pathogens including canine distemper virus, canine parvovirus, and West Nile virus. Of the 15 radio-collared fishers found dead on the Hoopa Valley Indian Reservation during the pathogen study, 2 had been exposed to canine distemper virus and 6 to canine parvovirus (Brown *et al.* 2008, p. 3). Evidence of canine distemper virus infection has been reported in all families of terrestrial carnivores, including the family Mustelidae that includes martens and fishers (Deem *et al.* 2000, p. 441). In fact, mustelids are among the species most susceptible to canine distemper disease (Deem *et al.* 2000, p. 443). For example, black-footed ferrets (*Mustela nigripes*) are highly susceptible to natural canine distemper infection and have a fatality rate close to 100 percent (Bernard *et al.* 1984). Because canine distemper is highly contagious, and viral shedding may follow infection for 60–90 days (Greene and Appel 1990), it is reasonable to assume that infected fishers on the Hoopa Valley Indian Reservation, especially dispersing juveniles, could infect the nearby Humboldt marten population. Even at low exposure rates, canine distemper has the potential to be a threat to one or more of the small extant Humboldt marten populations.

Research cited in the petition and information in our files indicates that fishers located in close proximity to Humboldt marten occurrences in northwestern California have been exposed to canine distemper, a disease that can be transmitted between different species of carnivores and that can cause high levels of mortality in carnivores, including species within the Mustelidae family. Estimated size of the northwestern California Humboldt marten population is small, so an outbreak of canine distemper or other lethal carnivore disease could have a population-level impact and pose a threat to this population.

Predation

The petition states that predation is a significant threat to the Humboldt marten, especially because the subspecies is highly vulnerable to mortality events and further population decline due to its small population size (CBD and EPIC 2010, p. 25). Timber harvesting practices that result in reduced shrub layers may result in increased vulnerability of Humboldt martens to predation by larger carnivores, such as fishers and gray foxes. Fishers and gray foxes typically occupy forest types where shrub densities are naturally lower and are rarely detected in coastal forest with extensive shrub cover (Slauson and Zielinski 2007b, p. 242). Dense, spatially extensive shrub layers may provide smaller-bodied Humboldt martens an advantage over other larger-bodied carnivores (Slauson *et al.* 2007, p. 466), so that the removal of these layers may put the Humboldt marten at risk of increased predation. Although there may be associations between shrub cover and risk of predation in forests where Humboldt martens occur, we did not find information in the petition or in our files indicating that elevated predation rates may be a threat to the continued existence of Humboldt martens.

The petition states that recreational activities, including off-highway vehicles, dirt bikes, hiking, and camping, could affect Humboldt marten behavior, possibly exposing the Humboldt marten to increased predation. The petition acknowledges that the level of the threat from these recreational activities is unknown, but likely low due to the remoteness of the

currently occupied range of the Humboldt marten. We conclude that information in the petition and information in our files does not support the assertion in the petition that predation is a threat to Humboldt marten.

Summary of Factor C

In summary, we find that the information provided in the petition, as well as other information readily available in our files, presents substantial scientific or commercial information indicating that the petitioned action may be warranted due to disease as a result of the threat posed by canine distemper or other lethal carnivore diseases on Humboldt marten. We will review the possible effects of these threats to Humboldt marten more thoroughly in our status review.

D. The Inadequacy of Existing Regulatory Mechanisms

The petition states that existing regulatory mechanisms do not adequately protect the Humboldt marten on Federal, State, tribal, or private lands (CBD and EPIC 2010, pp. 28–33). The petition further states that martens are still legally trapped in coastal Oregon and that existing regulatory mechanisms are inadequate to protect habitat for the martens in coastal northern California and coastal Oregon (CBD and EPIC 2010, p. 28).

The petition states that large areas of the Humboldt marten's historical range and current range occur on privately owned commercial timberlands where existing regulatory mechanisms do not protect Humboldt martens from habitat loss and degradation due to timber harvesting (CBD and EPIC 2010, p. 29). As mentioned in the Factor A section above, large areas of the Humboldt marten's current range in coastal northern California and coastal Oregon occur on private commercial timberland. Information in our files supports the assertion that forest management practices on these private commercial timberlands may not be compatible with habitat management for martens (see Factor A; Zielinski *et al.* 2001, pp. 483–488).

The petition also states that existing regulatory mechanisms on Federal Forest Service lands are not adequate to protect Humboldt martens from habitat loss and degradation due to timber harvesting (CBD and EPIC 2010, pp. 28–29). The petition acknowledges that the American marten is recognized as a Forest Service sensitive species in California, but not in Oregon (CBD and EPIC 2010, p. 29); however, the petition goes on to state that the sensitive species status in California does not provide nondiscretionary protections and thus is not considered an adequate regulatory mechanism (CBD and EPIC 2010, p. 29). The petition also states that large areas of the Humboldt marten's current range on Forest Service lands are designated as matrix lands under the Northwest Forest Plan (NWFP), and that timber harvesting that may be incompatible with Humboldt marten habitat management is allowed on matrix lands (CBD and EPIC 2010, pp. 29–30). The NWFP was adopted in 1994 to guide the management of 37,500 sq mi (97,125 sq km) of Federal lands in portions of western Washington and Oregon, and northwestern California. Implementation of the NWFP was intended to provide, over time, a network of large blocks of late-successional forest habitat connected by riparian reserves. However, even with NWFP implementation, timber harvest, fuels reduction projects, and road construction may continue to result in the loss and fragmentation of occupied and suitable but unoccupied Humboldt marten habitat throughout a substantial portion of its range in coastal Oregon and northwestern California. Protections for late-successional forest habitats provided for species such as the northern spotted owl (*Strix occidentalis caurina*) and marbled murrelet (*Brachyramphus marmoratus*), which are listed as threatened under the Act, provide certain protections for marten habitat but may not provide sufficient protections for certain habitat elements known to be important for Humboldt martens, such as shade-tolerant shrub cover.

Summary of Factor D

In summary, we find that the information provided in the petition, as well as other information readily available in our files, presents substantial scientific or commercial information indicating that the petitioned action may be warranted due to the inadequacy of existing regulatory mechanisms that address habitat threats associated with timber harvesting and forest management. We will review the possible effects of these threats on Humboldt marten more thoroughly in our status review.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The petition states that several other factors threaten the continued existence of the Humboldt marten, including small population size effects; mortality from vehicle strikes, poisoning, and starvation; and global climate change (CBD and EPIC 2010, pp. 27–28).

The petition states that widespread timber harvesting has resulted in drastically reduced suitable habitat for Humboldt marten, and that existing populations in California and coastal Oregon are small and isolated (CBD and EPIC 2010, p. 27). The smaller a population becomes, the more susceptible it is to stochastic (random) demographic and environmental variation and to genetic factors that tend to reduce population size even more and that may push the population to extinction (Primack 1993, p. 274). Primack (1993, p. 335) found that population size was the best predictor of extinction probability. Slauson *et al.* (2009b, p. 5) used multi-season occupancy modeling to estimate the probability of extinction and colonization (probability that Humboldt martens in northwestern California would reoccupy currently unoccupied suitable habitat) and found that the probability of extinction was higher than the probability of colonization (Slauson *et al.* 2009b, p. 10). As mentioned in the *Species Information* section, for a mammal of its size, American martens—and presumably Humboldt martens—have a relatively low reproductive rate, suggesting a slow recovery from population-level impacts. Species with low rates of population increase are often unable to rebuild their populations fast enough to avoid extinction following habitat loss (Primack 1993, p. 102). As mentioned in the Population Status section, it is estimated that the extant Humboldt marten population in coastal northern California contains fewer than 100 individuals and is believed to be declining, and the two coastal Oregon populations are also considered to be small and in decline. Information in our files supports the assertion in the petition that current Humboldt marten populations in coastal northern California and coastal Oregon are vulnerable to extinction processes due to small and isolated populations (Slauson *et al.* 2007, p. 458; Slauson *et al.* 2009b, p. 13).

The petition states that the Humboldt marten is threatened by several sources of mortality including vehicle strikes, poisoning, and starvation (CBD and EPIC 2010, p. 28). Zielinski *et al.* (2001, p. 484) noted that 10 marten road kills had been reported from coastal central Oregon between 1980 and 1998, while no marten road kills had been reported in coastal California. We acknowledge that Humboldt martens are occasionally killed by vehicles along highways, but we do not consider the numbers reported by Zielinski *et al.* (2001, p.

484) to be sufficiently great to threaten the continued existence of the Humboldt marten, nor do we have information in our files indicating that mortality from vehicle collisions threatens martens in coastal northern California and coastal Oregon. The petition also states that martens are vulnerable to mortality from starvation and poisoning, although the petition acknowledges that the extent of the threat of these factors to the Humboldt marten has not been quantified (CBD and EPIC 2010, p. 28). We conclude that information in the petition and in our files does not indicate that mortality from poisoning or starvation threatens the continued existence of martens in coastal northern California and coastal Oregon. However, we will evaluate these potential threats more thoroughly in our 12-month finding.

The petition further states that global climate change threatens the Humboldt marten (CBD and EPIC 2010, p. 28). According to the petition, vegetation changes resulting from climate change could cause changes in the type and availability of prey for martens and could affect availability of resting and denning sites, shrub cover, and canopy cover. The petition also states that climate change could lead to tree mortality from insect infestation, disease, and drought. While we acknowledge that climate change will result in a variety of environmental changes including changes in vegetation composition and structure, information presented in the petition is too general and speculative to determine whether climate change effects may threaten the continued existence of the Humboldt marten, and we do not have specific information available in our files indicating that climate change threatens the continued existence of the Humboldt marten.

Summary of Factor E

In summary, we find that the information provided in the petition, as well as other information readily available in our files, presents substantial scientific or commercial information indicating that the petitioned action may be warranted due to other natural or manmade factors affecting its continued existence, specifically small population effects. We will review threats posed by small population effects more thoroughly during our status review.

Finding

On the basis of our determination under section 4(b)(3)(A) of the Act, we determine that the petition presents substantial scientific or commercial information indicating that listing the Humboldt marten throughout all or a significant portion of its range may be warranted. This finding is based on substantial information provided in the petition and in our files for Factor A, Factor C, Factor D, and Factor E. We determine that the information provided under Factor B is not substantial.

Because we have found that the petition presents substantial information indicating that listing the Humboldt marten may be warranted, we are initiating a status review to determine whether listing the Humboldt marten under the Act is warranted. Because ongoing genetics research may result in changes to American marten taxonomy, we will examine whether the purported subspecific designation of Humboldt marten is appropriate during our status review. If the Humboldt marten does not maintain its status as a subspecies, we will examine during our status review whether the Humboldt marten meets criteria for designation as a distinct population segment under our February 7, 1996, DPS policy (61 FR 4722).

The ''substantial information'' standard for a 90-day finding differs from the Act's ''best scientific and commercial data'' standard that applies to a status review to determine whether a petitioned action is warranted. A 90-day finding does not constitute a status review under the Act. In a 12-month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90-day finding. Because the Act's standards for 90-day and 12-month findings are different, as described above, a substantial 90-day finding does not mean that the 12-month finding will result in a warranted finding.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Arcata Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

Authors

The primary authors of this document are the staff members of the Arcata Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 30, 2011.

Rowan W. Gould,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2012–479 Filed 1–11–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–AY74

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Amendment 20A

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS announces that the South Atlantic Fishery Management Council (Council) has submitted Amendment 20A to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 20A) for review, approval, and implementation by NMFS. Amendment 20A proposes actions for the wreckfish individual transferable quota (ITQ) program, including actions to define and revert inactive wreckfish quota shares, redistribute reverted quota shares to remaining shareholders, establish a cap on the number of wreckfish quota shares a single entity may own, and establish an appeals process for redistribution of reverted wreckfish quota shares. The actions contained in Amendment 20A are intended to help achieve the optimum yield (OY) from the wreckfish commercial sector in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received on or before March 12, 2012.

ADDRESSES: You may submit comments on the amendment identified by ''NOAA–NMFS–2011–0277'' by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Nikhil Mehta, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: *http://www.regulations.gov,* click on ''submit a comment'', then enter ''NOAA–NMFS–2011–0277'' in the keyword search and click on ''search''. To view posted comments during the comment period, enter ''NOAA–NMFS–2011–0277'' in the keyword search and click on ''search''. NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

Electronic copies of Amendment 20A may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm.*

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, telephone: (727) 824–5305, or email: *nikhil.mehta@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires each regional fishery management council to submit any FMP or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

The FMP being revised by Amendment 20A was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

Wreckfish is part of the snapper-grouper fishery and is managed under the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP). The wreckfish commercial sector has been managed under an ITQ program since March 1992, through Amendment 5 to the Snapper-Grouper FMP, in order to end derby fishing (race to fish) practices. Currently, there is latent effort in the wreckfish commercial sector with very few active participants. In August 2010, the Council's Scientific and Statistical Committee (SSC) recommended an acceptable biological catch (ABC) for wreckfish off the southern Atlantic states of 250,000 lb (113,389 kg), round weight. The proposed rule for the Comprehensive Annual Catch Limit Amendment (Comprehensive ACL Amendment) published on December 1, 2011 (76 FR 74757), and would implement an ACL of 250,000 lb (113,389 kg), round weight for wreckfish. The Comprehensive ACL Amendment would further allocate 95 percent of the wreckfish ACL to the commercial sector (237,500 lb; 107,728 kg, round weight). In November 2011, the Council's SSC met and recommended a revised wreckfish ABC equal to 235,000 lb (106,594 kg), round weight. The Council then met in December 2011 and reviewed and accepted the SSC's recommendation to reduce the wreckfish ABC which would in turn reduce the wreckfish ACL. Therefore, to incorporate this recommended revised ACL, NMFS published an amended proposed rule for the Comprehensive ACL Amendment on December 30, 2011 (76 FR 82264) to implement the revised wreckfish ABC and ACL of 235,000 lb (106,594 kg), round weight, of which 223,250 lb (101,264 kg) would be allocated to the commercial sector. This would be an 89 percent reduction from the current total allowable catch for wreckfish of 2 million lb (907,185 kg), round weight. The intent of Amendment 20A is to achieve OY in the wreckfish commercial sector while maximizing harvest potential and not exceeding the ACL.

Define and Revert Inactive Wreckfish Quota Shares

The ACL for the wreckfish commercial sector proposed in the Comprehensive ACL Amendment and in the amended proposed rule, would result in a significant reduction in the amount of available harvest associated with each wreckfish quota share, including inactive wreckfish quota shares, in order to maintain harvest at or below the ACL. As a result, if inactive wreckfish quota shares are not reverted it is likely that harvest would only reach approximately 130,735–160,338 lb (59,300–72,728 kg), round weight, after applying the new ACL. Out of the 20 current wreckfish quota shareholders, there are 13 inactive wreckfish quota shareholders holding a combined 28.18 percent of wreckfish quota shares. Amendment 20A proposes to revert these wreckfish quota shares and redistribute them among the seven remaining active wreckfish quota shareholders.

Redistribute Reverted Wreckfish Quota Shares to Remaining Shareholders

Amendment 20A proposes to redistribute the above mentioned wreckfish quota shares to remaining wreckfish quota shareholders based on landings history from fishing years 2006/2007 through 2010/2011. The percentage of wreckfish quota shares redistributed to the remaining wreckfish quota shareholders would range from 0.04 percent to 9.91 percent.

Establish a Cap on the Number of Wreckfish Quota Shares a Single Entity May Own

Amendment 20A proposes to establish a cap of 49 percent of the total wreckfish quota shares a single entity can own. This would prevent any one entity from holding the majority of wreckfish quota shares, and would result in no active entities exceeding the quota share cap.

Establish an Appeals Process for Redistribution of Wreckfish Quota Shares

Five percent of the wreckfish quota shares for the 2012/2013 fishing year would be set-aside by Amendment 20A, to resolve any appeals of wreckfish quota shares for a period of 90-days starting on the effective date of the final rule. The Regional Administrator (RA) would review, evaluate, and provide final decisions on appeals. Hardship arguments would not be considered. The RA would determine the outcome of appeals based on NMFS' logbooks. If NMFS' logbooks are not available, the RA could use state landings records. Appellants would submit NMFS' logbooks or state landings records to support their appeal. After the appeals process has been completed, any amount of quota shares remaining from the set-aside would be redistributed to remaining ITQ shareholders, according to the redistribution method specified above.

A proposed rule that would implement measures outlined in Amendment 20A has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMPs, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Comments received by March 12, 2012, will be considered by NMFS in its

decision to approve, disapprove, or partially approve Amendment 20A. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on Amendment 20A or the proposed rule for Amendment 20A during their respective comment periods will be addressed.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 6, 2012.

Steven Thur,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–398 Filed 1–11–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100217095–1780–03]

RIN 0648–AY56

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 32

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS published a proposed rule on November 2, 2011 (76 FR 67656) to implement management measures described in Amendment 32 to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Amendment 32) prepared by the Gulf of Mexico Fishery Management Council (Council). During the comment period for that proposed rule, NMFS identified an inconsistency in the codified text of that rule regarding the accountability measures for recreational gag and red grouper that needs correction. This rule proposes to further revise the recreational accountability measures for gag and red grouper to correctly specify what will occur if the ACL is exceeded and the species is overfished. This proposed rule is intended to end overfishing of gag, allow the gag stock to rebuild, and co-manage gag and red grouper by implementing concurrent management measures.

DATES: Written comments must be received on or before January 27, 2012.

ADDRESSES: You may submit comments on the proposed rule identified by ''NOAA–NMFS–2011–0135'' by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: *http://www.regulations.gov,* click on ''submit a comment,'' then enter ''NOAA–NMFS–2011–0135'' in the keyword search and click on ''search.'' To view posted comments during the comment period, enter ''NOAA–NMFS–2011–0135'' in the keyword search and click on ''search.'' NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments through means not specified in this rule will not be accepted.

Electronic copies of Amendment 32, which includes a draft environmental impact statement (DEIS), an initial regulatory flexibility analysis (IRFA), and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at *http://sero.nmfs.noaa.gov/sf/GrouperSnapperandReefFish.htm.*

FOR FURTHER INFORMATION CONTACT: Peter Hood, Southeast Regional Office, NMFS, telephone (727) 824–5305; email: *Peter.Hood@noaa.gov.*

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

A proposed rule for Amendment 32 was published on November 2, 2011 (76 FR 67656) with the comment period ending December 2, 2011. That proposed rule included measures to adjust the commercial gag quota and recreational annual catch target (ACT) for 2012 through 2015 and subsequent fishing years, consistent with the gag rebuilding plan established in Amendment 32; adjust the shallow-water grouper quota; adjust the commercial and recreational sector's annual catch limits (ACLs) for gag and red grouper; adjust the commercial ACL for SWG; establish a formula-based method for setting gag and red grouper multi-use allocation for the grouper/tilefish individual fishing quota program in the Gulf of Mexico; set the recreational gag fishing season from July 1 through October 31; reduce the gag commercial size limit to 22 inches (59 cm) total length (TL); and modify the gag and red grouper accountability measures (AMs).

During the comment period for that proposed rule, NMFS identified an inconsistency in the codified text regarding the AMs for gag and red grouper. In § 622.49, paragraph (a)(4)(ii)(C), the codified text for gag recreational AMs states that, ''if gag recreational landings, as estimated by the SRD, exceed the applicable ACL specified in paragraph (a)(4)(ii)(D), and gag are overfished, based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the ACL for that following year by the amount of the overage in the prior fishing year, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary.'' However, in § 622.49, paragraph (a)(4)(ii)(B), the codified text states that, ''Without regard to overfished status, and in addition to the measures specified in paragraph (a)(4)(ii)(A), if gag recreational landings, as estimated by the SRD, exceed the applicable ACLs specified in paragraph (a)(4)(ii)(D), the AA will file a notification with the Office of the Federal Register to maintain the gag target catch level, specified in paragraph (a)(4)(ii)(D), for that following fishing year at the level of the prior year's target catch, unless the best scientific information available determines that maintaining the prior year's target catch is unnecessary.'' The codified text for red grouper recreational AMs in § 622.49, paragraphs (a)(5)(ii)(C) and (B) is identical to the gag codified text. Therefore, if gag or red grouper are overfished and recreational landings exceed the ACL and an overage adjustment is made to the ACL the following year, the ACL could actually

be adjusted to a lower poundage than the annual target catch or ACT. The ACT, according to the National Standard 1 guidelines (74 FR 3178, January 16, 2009) is usually set less than the ACL. ''ACT is set at an amount not to exceed the ACL to account for management uncertainty in controlling a fishery's actual catch.'' Therefore, there should be a buffer between the ACT and the ACL. This rule proposes to rectify this potential inconsistency in the regulations. If the ACL is exceeded and gag or red grouper are overfished, NMFS proposes that both the ACL and ACT be adjusted by the same ACL overage amount the next fishing year. NMFS also proposed to revise the term ''target catch level'' with ''annual catch target'' or ''ACT'', which is the language used in Amendment 32 and which is consistent with the language used in the codified text for other Gulf and South Atlantic species with ACLs, AMs, and target catches, or ACTs. The codified text contained in this proposed rule only contains the further revisions to the recreational AMs for gag and red grouper. The codified text for all other measures in Amendment 32 is contained in the proposed rule published on November 2, 2011 (76 FR 67656) and is not repeated here.

NMFS is requesting comments for a period of 15 days regarding these additional revisions to the codified text. These management measures, as well as the management measures contained in the proposed rule published on November 2, 2011, will be addressed in one final rule to implement Amendment 32. No other revisions or changes to the proposed rule to implement Amendment 32 are included here. All discussion of the management measures contained in Amendment 32 including the accountability measures are provided in the proposed rule that published on November 2, 2011 (76 FR 67656), and in Amendment 32, and are not repeated here.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the AA has determined that this proposed rule is consistent with Amendment 32, the Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, for the proposed rule to implement Amendment 32 (76 FR 67656). The IRFA analyzed all of the measures contained in Amendment 32, including the accountability measures in this rule, in the rule that published on November 2, 2011 and in Amendment 32, and therefore, are not repeated here. A copy of the full analysis is available from NMFS (see **ADDRESSES**).

This proposed rule does not establish any new reporting, record-keeping, or other compliance requirements.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: January 6, 2012.

Paul N. Doremus,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622, as proposed to be amended at 76 FR 67656, November 2, 2011, is proposed to be further amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.49, paragraphs (a)(4)(ii), and (a)(5)(ii) are revised to read as follows:

§ 622.49 Annual Catch Limits (ACLs) and Accountability measures (AMs).

(a) * * *

(4) * * *

(ii) *Recreational sector.* (A) Without regard to overfished status, if gag recreational landings, as estimated by the SRD, reach or are projected to reach the applicable ACLs specified in paragraph (a)(4)(ii)(D), the AA will file a notification with the Office of the Federal Register, to close the recreational sector for the remainder of the fishing year. On and after the effective date of such a notification, the bag and possession limit of gag in or from the Gulf EEZ is zero. This bag and possession limit applies in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, i.e. in state or Federal waters. In addition, the notification will reduce the length of the recreational SWG fishing season the following fishing year by the amount necessary to ensure gag recreational landings do not exceed the recreational target catch level in the following fishing year.

(B) If gag are not overfished, and in addition to the measures specified in paragraph (a)(4)(ii)(A), if gag recreational landings, as estimated by the SRD, exceed the applicable ACLs specified in paragraph (a)(4)(ii)(D), the AA will file a notification with the Office of the Federal Register to maintain the gag ACT, specified in paragraph (a)(4)(ii)(D), for that following fishing year at the level of the prior year's ACT, unless the best scientific information available determines that maintaining the prior year's target catch is unnecessary. In addition, the notification will reduce the length of the recreational SWG fishing season the following fishing year by the amount necessary to ensure gag recreational landings do not exceed the recreational ACT in the following fishing year.

(C) In addition to the measures specified in paragraphs (a)(4)(ii)(A) and (B), if gag recreational landings, as estimated by the SRD, exceed the applicable ACL specified in paragraph (a)(4)(ii)(D), and gag are overfished, based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the ACL and the ACT for that following year by the amount of the ACL overage in the prior fishing year, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary.

(D) The applicable recreational ACLs for gag, in gutted weight, are 1.232 million lb (0.559 million kg) for 2012, 1.495 million lb (0.678 million kg) for 2013, 1.720 million lb (0.780 million kg) for 2014, and 1.903 million lb (0.863 million kg) for 2015 and subsequent fishing years. The recreational ACTs for gag, in gutted weight, are 1.031 million lb (0.468 million kg) for 2012, 1.287 million lb (0.584 million kg) for 2013, 1.519 million lb (0.689 million kg) for 2014, and 1.708 million lb (0.775 million kg) for 2015 and subsequent fishing years. Recreational landings will be evaluated relative to the ACL based on a moving multi-year average of landings, as described in the FMP.

(5) * * *

(ii) *Recreational sector.* (A) Without regard to overfished status, if red grouper recreational landings, as estimated by the SRD, reach or are projected to reach the applicable ACL specified in paragraph (a)(5)(ii)(D), the AA will file a notification with the Office of the Federal Register, to close the recreational sector for the remainder of the fishing year. On and after the effective date of such a notification, the bag and possession limit of red grouper in or from the Gulf EEZ is zero. This bag

and possession limit applies in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, i.e. in state or Federal waters.

(B) If red grouper are not overfished, and in addition to the measures specified in paragraph (a)(5)(ii)(A), if red grouper recreational landings, as estimated by the SRD, exceed the applicable ACL specified in paragraph (a)(5)(ii)(D), the AA will file a notification with the Office of the Federal Register to maintain the red grouper ACT, specified in paragraph (a)(5)(ii)(D), for that following fishing year at the level of the prior year's ACT, unless the best scientific information available determines that maintaining the prior year's ACT is unnecessary. In addition, the notification will reduce the bag limit by one fish and reduce the length of the recreational SWG fishing season the following fishing year by the amount necessary to ensure red grouper recreational landings do not exceed the recreational ACT in the following fishing year. The minimum red grouper bag limit for 2014 and subsequent fishing years is two fish.

(C) In addition to the measures specified in paragraphs (a)(5)(ii)(A) and (B), if red grouper recreational landings, as estimated by the SRD, exceed the applicable ACL specified in paragraph (a)(5)(ii)(D), and red grouper are overfished, based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the ACL and the ACT for that following year by the amount of the ACL overage in the prior fishing year, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary.

(D) The recreational ACL for red grouper, in gutted weight, is 1.90 million lb (0.862 million kg) for 2012 and subsequent fishing years. The recreational ACT for red grouper, in gutted weight, is 1.730 million lb (0.785 million kg) for 2012 and subsequent fishing years. Recreational landings will be evaluated relative to the ACL based on a moving multi-year average of landings, as described in the FMP.

* * * * *

[FR Doc. 2012–475 Filed 1–11–12; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 77, No. 8
Thursday, January 12, 2012

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Meeting of the Agricultural Air Quality Task Force

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Department of Agriculture (USDA), Agricultural Air Quality Task Force (AAQTF) will meet to continue discussions on critical air quality issues related to agriculture. Special emphasis will be placed on obtaining a greater understanding about the relationship between agricultural production and air quality. The meeting is open to the public, and a draft agenda is included in this notice.

DATES: The AAQTF meeting will convene on Tuesday, February 7, 2012, from 8 a.m. to 5 p.m. and Wednesday, February 8, 2012, from 8 a.m. to 4 p.m. There will be a public comment period. Individuals making oral presentations should contact Elvis Graves and bring at least 30 copies of any material to be distributed. Written material to be considered by the AAQTF must be received by Elvis Graves (address given below) no later than January 27, 2012.

ADDRESSES: The meeting will be held at the Sheraton Phoenix Airport Hotel located at 1600 S. 52nd Street, Tempe, Arizona 85281; Telephone: (480) 829–9427.

FOR FURTHER INFORMATION CONTACT: Questions and comments should be directed to Elvis L. Graves, Designated Federal Official, Department of Agriculture Natural Resources Conservation Service, Post Office Box 2890, Washington, DC 20013; Telephone: (202) 720–1858; Fax: (202) 720–2646; Email: *elvis.graves@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. Additional information concerning AAQTF, including any revised agendas for the February 7–8, 2012, meeting that occurs after this **Federal Register** Notice is published, may be found at *http://www.airquality.nrcs.usda.gov/AAQTF/index.html.*

Draft Agenda

Meeting of the AAQTF

February 7–8, 2012

A. Welcome to Phoenix, Arizona
- USDA, NRCS, and local officials

B. Review Minutes and Actions From Last Meeting

C. USDA Agency and Environmental Protection Agency Updates

D. Air Quality Issues/Concerns Discussions
- Exceptional Events Policy Implications in Desert Environment
- Maricopa County Ag Best Management Practices (BMP)
- Committee Updates

E. Next Meeting, time/place
- Public Input (time will be reserved at designated time(s) to receive public comment. Individual presentations will be limited to 5 minutes).

** Please note that the timing of events in the agenda is subject to change to accommodate changing schedules of expected speakers or unexpected events.*

Procedural

The meeting is open to the public. At the discretion of the Chair, members of the public may give oral presentations during the meeting. Those persons wishing to make oral presentations should notify Elvis Graves at (202) 720–1858 no later than January 27, 2011. Those wishing to distribute written materials at the meeting (in conjunction with spoken comments) must bring at least 30 copies of the materials with them. If a person submitting material would like a copy distributed to each member of the committee in advance of the meeting, they should submit copies to Elvis Graves no later than January 27, 2011.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, please contact Elvis Graves. USDA prohibits discrimination in its programs and activities on the basis of race, color, national origin, gender, religion, age, sexual orientation, or disability. Additionally, discrimination on the basis of political beliefs and marital or family status is also prohibited by statutes enforced by USDA. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternate means for communication of program information (Braille, large print, audio tape, etc.) should contact the USDA's Target Center at (202) 720–2000 (voice and TDD).

Signed this 5th day of January, 2012, in Washington, DC.

Dave White,

Chief, Natural Resources Conservation Service.

[FR Doc. 2012–469 Filed 1–11–12; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southeast Region Vessel Identification Requirements.

OMB Control Number: 0648–0358.

Form Number(s): NA.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 9,774.

Average Hours per Response: 45 minutes.

Burden Hours: 7,331.

Needs and Uses: This request is for extension of a current information collection.

The National Marine Fisheries Service (NMFS) Southeast Region manages the United States (U.S.) fisheries of the exclusive economic zone (EEZ) off the South Atlantic, Caribbean, and Gulf of Mexico under the Fishery Management Plans (FMP) for each Region. The

Regional Fishery Management Councils prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The regulations implementing the FMPs that have reporting requirements are at 50 CFR part 622.

The recordkeeping and reporting requirements at 50 CFR part 622 form the basis for this collection of information. NMFS Southeast Region requires that all permitted fishing vessels must mark their vessel with the official identification number or some form of identification. A vessel's official number, under most regulations, is required to be displayed on the port and starboard sides of the deckhouse or hull, and weather deck. The official number and color code identifies each vessel and should be visible at distances at sea and in the air. These markings provide law enforcement personnel with a means to monitor fishing, at-sea processing, and other related activities, to ascertain whether the vessel's observed activities are in accordance with those authorized for that vessel. The identifying number is used by NMFS, the United States Coast Guard (USCG) and other marine agencies in issuing violations, prosecutions, and other enforcement actions. Vessels that qualify for particular fisheries are readily identified, gear violations are more readily prosecuted, and this allows for more cost-effective enforcement.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: OIRA_Submission@omb.eop.gov.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov*.

Dated: January 9, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–465 Filed 1–11–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Region Logbook Family of Forms.

OMB Control Number: 0648–0213.

Form Number(s): NA.

Type of Request: Regular submission (revision and extension of a current information collection).

Number of Respondents: 832.

Average Hours per Response: Daily fishing logs, 20 minutes; daily cumulative production logs, 30 minutes; check-in/check-out reports, 5 minutes; buying station reports, 23 minutes; vessel activity reports, 14 minutes; product transfer reports, 20 minutes.

Burden Hours: 40,058.

Needs and Uses: This request is for revision and extension of a current information collection. A program change is due to motherships and catcher/processors no longer using the check-in/check-out report as the reports are now made through vessel monitoring systems, covered under OMB Control No. 0648–0445.

National Marine Fisheries Service (NMFS) Alaska Region manages the United States (U.S.) groundfish fisheries of the Exclusive Economic Zone (EEZ) off Alaska under the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (FMPs). The North Pacific Fishery Management Council prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. The regulations implementing the FMPs are at 50 CFR part 679.

The recordkeeping and reporting requirements at 50 CFR Part 679 form the basis for this collection of information. NMFS Alaska Region requests information from participating groundfish participants. This information, upon receipt, results in an increasingly more efficient and accurate database for management and monitoring of the groundfish fisheries of the EEZ off Alaska.

Affected Public: Business or other for-profit organizations.

Frequency: Daily, on occasion, and annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov*.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov*.

Dated: January 9, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–426 Filed 1–11–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southeast Region Gear Identification Requirements.

OMB Control Number: 0648–0359.

Form Number(s): NA.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 3,021.

Average Hours per Response: Coral rocks, 10 seconds; traps and pots, 7 minutes; buoy gear and mackerel gillnets, 20 minutes.

Burden Hours: 9,177.

Needs and Uses: This request is for extension of a current information collection.

National Marine Fisheries Service (NMFS) Southeast Region manages the U.S. fisheries of the exclusive economic zone (EEZ) off the South Atlantic, Caribbean, and Gulf of Mexico under the Fishery Management Plans (FMP) for each Region. The Regional Fishery Management Councils prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

The recordkeeping and reporting requirements at 50 CFR part 622 form

the basis for this collection of information. Requirements that fishing gear be marked are essential to facilitate enforcement. The ability to link fishing gear to the vessel owner is crucial to enforcement of regulations issued under the authority of the MSA. The marking of fishing gear is also valuable in actions concerning damage, loss, and civil proceedings. The requirements imposed in the Southeast Region are for coral aquacultured live rock; golden crab traps; mackerel gillnet floats; spiny lobster traps; black sea bass pots; and buoy gear.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: OIRA_Submission@omb.eop.gov.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: January 9, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–427 Filed 1–11–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Licensing Responsibilities and Enforcement

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before March 12, 2012.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Larry Hall, BIS ICB Liaison, (202) 482–4895, *Lawrence.Hall@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information involves nine miscellaneous activities described in section 758 of the Export Administration Regulations (EAR) that are associated with the export of items controlled by the Department of Commerce. Most of these activities do not involve submission of documents to BIS but instead involve exchange of documents among parties in the export transaction to insure that each party understands its obligations under U.S. law. Others involve writing certain export control statements on shipping documents or reporting unforeseen changes in shipping and disposition of exported commodities. These activities are needed by the BIS's Office of Export Enforcement and the U.S. Customs and Border Protection to document export transactions, enforce the EAR and protect the National Security of the United States.

II. Method of Collection

Submitted electronically or on paper.

III. Data

OMB Control Number: 0694–0122.

Form Number(s): N/A.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,821,891.

Estimated Time per Response: 5 seconds to 2 hours.

Estimated Total Annual Burden Hours: 78,576.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 9, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–443 Filed 1–11–12; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–836]

Light-Walled Rectangular Pipe and Tube From Mexico; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* January 12, 2012.

SUMMARY: On September 7, 2011, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on light-walled rectangular pipe and tube from Mexico.[1] This administrative review covers two manufacturers/exporters and has a period of review (POR) from August 1, 2009, through July 31, 2010.

Based on our analysis of the comments received on the preliminary results, we have made changes to the margin calculations for one company (Regiomontana de Perfiles y Tubos S.A. de C.V.) and, as a result, the final results of review differ from the preliminary results for this company. The final dumping margins for all reviewed companies are listed below in the section entitled ''Final Results of Review.''

FOR FURTHER INFORMATION CONTACT: Brian Davis (Regiopytsa), Dena Crossland (Maquilacero), or Edythe Artman, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department

[1] *See Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 55352 (September 7, 2011) (*Preliminary Results*).

of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–7924, (202) 482–3362, or (202) 482–3931, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 7, 2011, the Department published the *Preliminary Results.* This second administrative review of the order covers sales of subject merchandise, as described in the ''Scope of the Order'' section below, made during the POR from August 1, 2009, through July 31, 2010. Although we named four companies in the notice of initiation for this review,[2] we only reviewed the sales of two companies—Maquilacero S.A. de C.V. (Maquilacero) and Regiomontana de Perfiles y Tubos S.A. de C.V. (Regiopytsa)—as we rescinded the review for two other companies. *See Preliminary Results,* 76 FR at 55353.

We invited parties to comment on the *Preliminary Result*s and received case briefs from the respondent companies. None of the parties requested a hearing on the issues raised in comments.

Period of Review

The POR is August 1, 2009, through July 31, 2010.

Scope of the Order

The merchandise that is the subject of this order is certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm. The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in the case briefs by parties to this antidumping duty administrative review are addressed in the ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Light-Walled Rectangular Pipe and Tube from Mexico'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, dated January 4, 2012 (Issues and Decision Memorandum), which is hereby adopted by this notice. A list of all issues, which parties have raised and to which we have responded, is in the Issues and Decision Memorandum and is also attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia/*. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made one revision, a correction to the U.S. packing expense used to calculate Regiopytsa's margin. This change has been detailed in Regiopytsa's company-specific analysis memorandum, dated concurrently with this notice and on file electronically *via* IA ACCESS, as noted above. Specifically, we have revised the programming language in the U.S. Margin Program to convert Regiopytsa's U.S. packing expenses from Mexican pesos to U.S. dollars for purposes of calculating the foreign unit price in dollars. *See* Comment 2 of the Issues and Decision Memorandum.

Final Results of the Review

We determine that the following weighted-average dumping margins exist on light-walled rectangular pipe and tube from Mexico for the period August 1, 2009, through July 31, 2010:

Manufacturer or Exporter	Percentage margin
Maquilacero S.A. de C.V.	0.80
Regiomontana de Perfiles y Tubos S.A. de C.V.	3.20

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), the Department normally calculates an assessment rate for each importer of the subject merchandise covered by the review. Because both Maquilacero and Regiopytsa reported the entered value for all U.S. sales, we have calculated importer-specific, *ad valorem* duty assessment rates based on the ratio of each importer's total amount of antidumping duties calculated for the examined sales to the total entered value of the sales for that importer. In the event an assessment rate is above *de minimis* (*de minimis* being less than 0.5 percent in a review), we will instruct CBP to assess duties on all entries of subject merchandise for that importer during the period from August 1, 2009, through July 31, 2010.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which these companies did not know that the merchandise it sold to an intermediary was destined for the United States. In such instances, we will instruct CBP to liquidate non-reviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Assessment Notice.*

Pursuant to 19 CFR 351.106(c)(2), we intend to instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis.* The Department intends to issue assessment instructions directly to CBP 41 days after the publication of these final results of review.

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of these final results of

[2] See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 75 FR 60076 (September 29, 2010) at 60077.

review for all shipments of the subject merchandise entered or withdrawn from warehouse for consumption on or after the date of publication, consistent with section 751(a)(1) of the Act: (1) The cash-deposit rates for the reviewed companies will be the rates listed above; (2) for previously-reviewed or investigated companies not covered in this review, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation but the manufacturer is, the cash-deposit rate will be the rate established for the manufacturer of the merchandise for the most recent period; and (4) the cash-deposit rate for all other manufacturers or exporters will continue to be 3.76 percent, the all-others rate published in the amended final determination of the LTFV investigation. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube From Mexico,* 73 FR 45400, 45401 (August 5, 2008).

These deposit requirements shall remain in effect until further notice.

Notifications to Interested Parties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: January 4, 2012.

Christian Marsh,

Acting Assistant Secretary for Import Administration.

Appendix

1. Offsetting of Negative Margins

2. U.S. Packing Expense Clerical Error

[FR Doc. 2012–492 Filed 1–11–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Madrid Protocol

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 12, 2012.

ADDRESSES: You may submit comments by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0051 comment'' in the subject line of the message.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Sharon Marsh, Deputy Commissioner for Trademark Examination Policy, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313–1451, by telephone at (571) 272–8900, or by email to *Sharon.Marsh@uspto.gov.* Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by the Trademark Act of 1946, 15 U.S.C. 1051 *et seq.,* which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register the marks with the United States Patent and Trademark Office (USPTO).

The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (''Madrid Protocol'') is an international treaty that allows a trademark owner to seek registration in any of the participating countries by filing a single international application. The International Bureau (IB) of the World Intellectual Property Organization (WIPO) in Geneva, Switzerland, administers the international registration system. The Madrid Protocol Implementation Act of 2002 amended the Trademark Act to provide that: (1) The owner of a U.S. application or registration may seek protection of its mark in any of the participating countries by submitting a single international application to the IB through the USPTO, and (2) the holder of an international registration may request an extension of protection of the international registration to the United States. The Madrid Protocol became effective in the United States on November 2, 2003, and is implemented under 15 U.S.C. § 1141 *et seq.* and 37 CFR part 2 and part 7.

An international application submitted through the USPTO must be based on an active U.S. application or registration and must be filed by the owner of the application or registration. The USPTO reviews the international application to certify that it corresponds to the data contained in the existing U.S. application or registration before forwarding the international application to the IB. The IB then reviews the international application to determine whether the Madrid filing requirements have been met and the required fees have been paid. If the international application is unacceptable, the IB will send a notice of irregularity to the USPTO and the applicant. The applicant must respond to the irregularities to avoid abandonment, unless a response from the USPTO is required. After any irregularities are corrected and the application is accepted, the IB registers the mark, publishes the registration in the WIPO Gazette of International Marks, and sends a certificate to the holder.

When the mark is registered, the IB notifies each country designated in the application of the request for extension of protection. Each designated country then examines the request under its own laws. Once an international registration has been issued, the holder may also file subsequent designations to request an extension of protection to additional countries.

Under Section 71 of the Trademark Act, a registered extension of protection

to the United States will be cancelled unless the holder of the international registration periodically files affidavits of continued use in commerce or excusable nonuse. The first affidavit must be filed five years after the USPTO registers an extension of protection.

This collection includes the information necessary for the USPTO to process applications for international registration and related requests under the Madrid Protocol. The USPTO provides electronic forms for filing the items in this information collection online (except for the Request to Record an Assignment or Restriction of a Holder's Right to Dispose of an International Registration) using the Trademark Electronic Application System (TEAS), which is available through the USPTO Web site. The USPTO is proposing to add one item, the Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15, which is an existing information requirement that was not previously covered under this collection.

Applicants may also submit the items in this collection on paper or by using the forms provided by the IB, which are available on the WIPO Web site. The IB requires Applications for International Registration and Applications for Subsequent Designation that are filed on paper to be submitted on the official IB forms.

II. Method of Collection

By mail, hand delivery, or electronically to the USPTO.

III. Data

OMB Number: 0651–0051.

Form Number(s): PTO–1553, PTO–1583, PTO–2131, PTO–2132, PTO–2133.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 6,620 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 15 minutes to one hour and 15 minutes (0.25 to 1.25 hours) to complete the information in this collection, including the time to gather the necessary information, prepare the forms or documents, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 1,711 hours.

Estimated Total Annual Respondent Cost Burden: $581,740. The USPTO expects that the information in this collection will be prepared by attorneys. Using the estimated rate of $340 per hour for attorneys in private firms, the USPTO estimates that the respondent cost burden for submitting the information in this collection will be approximately $581,740 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Application for International Registration (PTO–2131 TEAS)	15 minutes	3,900	975
Application for International Registration (paper, no form)	30 minutes	20	10
Application for Subsequent Designation (PTO–2132 TEAS)	15 minutes	400	100
Application for Subsequent Designation (paper, no form)	20 minutes	5	2
Response to Notice of Irregularity (PTO–2133 TEAS)	15 minutes	1,000	250
Response to Notice of Irregularity (paper, no form)	30 minutes	5	3
Replacement Request (TEAS Global form)	30 minutes	15	8
Replacement Request (paper, no form)	45 minutes	5	4
Request to Record an Assignment or Restriction of a Holder's Right to Dispose of an International Registration (paper, no form).	30 minutes	5	3
Transformation Request (TEAS Global form)	15 minutes	20	5
Transformation Request (paper, no form)	30 minutes	10	5
Petition to Director to Review Denial of Certification of International Application (TEAS Global form).	1 hour	30	30
Petition to Director to Review Denial of Certification of International Application (paper, no form).	1 hour and 15 minutes	5	6
Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 (PTO–1553 TEAS).	15 minutes	700	175
Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 (paper, no form).	18 minutes	100	30
Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (PTO–1583 TEAS).	15 minutes	300	75
Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (paper, no form).	18 minutes	100	30
Totals		6,620	1,711

Estimated Total Annual Non-hour Respondent Cost Burden: $745,480. This collection has annual (non-hour) costs in the form of filing fees and postage costs.

The USPTO charges fees for processing international applications and related requests under the Madrid Protocol as set forth in 37 CFR 7.6. In addition to these USPTO fees, applicants must also pay international filing fees to the IB as indicated in 37 CFR 7.7. The USPTO estimates that the total filing fees in the form of USPTO processing fees associated with this collection will be approximately $745,250 per year as calculated in the accompanying table.

Item	Estimated annual responses	Fee amount	Estimated annual filing costs
Application for International Registration (for certifying an international application based on a single basic application or registration, per international class) (PTO–2131 TEAS)	2,000	$100.00	$200,000.00

Item	Estimated annual responses	Fee amount	Estimated annual filing costs
Application for International Registration (for certifying an international application based on a single basic application or registration, per international class) (paper, no form)	10	100.00	1,000.00
Application for International Registration (for certifying an international application based on more than one basic application or registration, per international class) (PTO–2131 TEAS)	1,900	150.00	285,000.00
Application for International Registration (for certifying an international application based on a single basic application or registration, per international class) (paper, no form)	10	150.00	1,500.00
Application for Subsequent Designation (PTO–2132 TEAS)	400	100.00	40,000.00
Application for Subsequent Designation (paper, no form)	5	100.00	500.00
Response to Notice of Irregularity (PTO–2133 TEAS)	1,000	0.00	0.00
Response to Notice of Irregularity (paper, no form)	5	0.00	0.00
Replacement Request (per international class) (TEAS Global form)	15	100.00	1,500.00
Replacement Request (per international class) (paper, no form)	5	100.00	500.00
Request to Record an Assignment or Restriction of a Holder's Right to Dispose of an International Registration (paper, no form)	5	100.00	500.00
Transformation Request (TEAS Global form)	20	375.00	7,500.00
Transformation Request (paper, no form)	10	375.00	3,750.00
Petition to Director to Review Denial of Certification of International Application (TEAS Global form)	30	100.00	3,000.00
Petition to Director to Review Denial of Certification of International Application (paper, no form)	5	100.00	500.00
Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 (per international class) (PTO–1553 TEAS)	700	100.00	70,000.00
Declaration of Continued Use/Excusable Nonuse of Mark in Commerce Under Section 71 (per international class) (paper, no form)	100	100.00	10,000.00
Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (per international class) (PTO–1583 TEAS)	300	300.00	90,000.00
Combined Declaration of Continued Use/Excusable Nonuse and Incontestability Under Sections 71 and 15 (per international class) (paper, no form)	100	300.00	30,000.00
Totals	6,620		745,250.00

The public may submit the items in this collection to the USPTO by mail through the United States Postal Service. The USPTO estimates that approximately 255 of the 6,620 total responses for this collection may be filed on paper and submitted by mail. The average first-class postage cost for a mailed submission will be 90 cents, for a total postage cost of approximately $230 per year.

The total non-hour respondent cost burden for this collection in the form of filing fees and postage costs is estimated to be $745,480 per year.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.,* the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 6, 2012.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2012–409 Filed 1–11–12; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, January 18, 2012, 10 a.m.–11.a.m.

PLACE: Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Commission Meeting—Open to the Public

MATTER TO BE CONSIDERED: *Briefing Matter:* Infant Swings—Notice of Proposed Rulemaking.

A live webcast of the Meeting can be viewed at *www.cpsc.gov/webcast.* For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: January 10, 2012.

Todd A. Stevenson,

Secretary.

[FR Doc. 2012–624 Filed 1–10–12; 4:15 pm]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, January 18, 2012; 11 a.m.–12 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED: *Compliance Status Report.*

The Commission staff will brief the Commission on the status of compliance matters. For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product

Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: January 10, 2012.

Todd A Stevenson,

Secretary.

[FR Doc. 2012–625 Filed 1–10–12; 4:15 pm]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (the Corporation), has submitted a public information collection request (ICR) entitled Day of Service Project Promotion Tool for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, David Premo, at (202) 606–6717 or email to *dpremo@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–(800) 833–3722 between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) *By fax to:* (202) 395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; and

(2) *Electronically by email to: smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Propose ways to enhance the quality, utility, and clarity of the information to be collected; and

• Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Comments

A 60-day public comment Notice was published in the **Federal Register** on October 25, 2011. This comment period ended December 27, 2011. No public comments were received from this Notice.

Description: The Corporation is seeking approval of Day of Service Project Promotion Tool which is used by Any person or group organizing a service project in conjunction with a Corporation initiative to help promote activities and to ascertain impact of our initiatives.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Day of Service Project Promotion Tool.

OMB Number: 3045–0122.

Agency Number: None.

Affected Public: Any person or group organizing a service project in conjunction with a Corporation Initiative.

Total Respondents: 100,000.

Frequency: 6 times annually.

Average Time per Response: Averages 10 minutes.

Estimated Total Burden Hours: 16,667.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: January 5, 2012.

Marco Davis,

Director of Public Engagement.

[FR Doc. 2012–410 Filed 1–11–12; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF ENERGY

Second Amended Notice of Intent To Modify the Scope of the Surplus Plutonium Disposition Supplemental Environmental Impact Statement and Conduct Additional Public Scoping

AGENCY: U.S. Department of Energy, National Nuclear Security Administration.

ACTION: Amended Notice of Intent.

SUMMARY: The U.S. Department of Energy (DOE) announces its intent to modify the scope of the *Surplus Plutonium Disposition Supplemental Environmental Impact Statement* (SPD Supplemental EIS, DOE/EIS–0283–S2) and to conduct additional public scoping. DOE issued its Notice of Intent (NOI) to prepare the SPD Supplemental EIS on March 28, 2007, and issued an Amended NOI on July 19, 2010. DOE now intends to further revise the scope of the SPD Supplemental EIS primarily to add additional alternatives for the disassembly of pits (a nuclear weapons component) and the conversion of plutonium metal originating from pits to feed material for the Mixed Oxide (MOX) Fuel Fabrication Facility (MFFF), which DOE is constructing at the Savannah River Site (SRS) in South Carolina. Under the proposed new alternatives, DOE would expand or install the essential elements required to provide a pit disassembly and/or conversion capability at one or more of the following locations: Technical Area 55 (TA–55) at the Los Alamos National Laboratory (LANL) in New Mexico, H–Canyon/HB–Line at SRS, K–Area at SRS, and the MFFF at SRS. In addition, DOE has decided not to analyze an alternative, described in the 2010 Amended NOI, to construct a separate Plutonium Preparation (PuP) capability for non-pit plutonium because the necessary preparation activities are adequately encompassed within the other alternatives.

The MOX fuel alternative is DOE's preferred alternative for surplus plutonium disposition. DOE's preferred alternative for pit disassembly and the conversion of surplus plutonium metal, regardless of its origins, to feed for the MFFF is to use some combination of facilities at TA–55 at LANL, K–Area at SRS, H–Canyon/HB–Line at SRS and MFFF at SRS, rather than to construct a new stand-alone facility. This would likely require the installation of additional equipment and other modifications to some of these facilities. DOE's preferred alternative for disposition of surplus plutonium that is not suitable for MOX fuel fabrication is disposal at the Waste Isolation Pilot Plant (WIPP) in New Mexico.

DATES: DOE invites Federal agencies, state and local governments, Native American tribes, industry, other organizations, and members of the public to submit comments to assist in identifying environmental issues and in determining the appropriate scope of the SPD Supplemental EIS. The public scoping period will end on March 12, 2012. DOE will consider all comments

received or postmarked by March 12, 2012. Comments received after that date will be considered to the extent practicable. Also, DOE asks that Federal, State, local, and tribal agencies that desire to be designated cooperating agencies on the SPD Supplemental EIS contact the National Environmental Policy Act (NEPA) Document Manager at the addresses listed under **ADDRESSES** by the end of the scoping period. The Tennessee Valley Authority (TVA) is a cooperating agency for sections of the EIS as described below. DOE will hold a public scoping meeting:

- February 2, 2012 (5:30 p.m. to 8 p.m.) at Cities of Gold Hotel, 10–A Cities of Gold Road, Pojoaque, NM 87501.

The scoping period announced in this second Amended NOI will allow for additional public comment and for DOE to consider any new information that may be relevant to the scope of the SPD Supplemental EIS. Because the additional alternatives do not involve new locations except for LANL, and because there have been two previous scoping periods for this SPD Supplemental EIS, DOE does not intend to hold additional scoping meetings except at Pojoaque, NM, or to extend the scoping period beyond that announced herein.

ADDRESSES: Please direct written comments on the scope of the SPD Supplemental EIS to Ms. Sachiko McAlhany, SPD Supplemental EIS NEPA Document Manager, U.S. Department of Energy, P.O. Box 2324, Germantown, MD 20874–2324. Comments on the scope of the SPD Supplemental EIS may also be submitted via email to *spdsupplementaleis@saic.com* or by toll-free fax to (877) 865–0277. DOE will give equal weight to written, email, fax, telephone, and oral comments. Questions regarding the scoping process and requests to be placed on the SPD Supplemental EIS mailing list should be directed to Ms. McAlhany by any of the means given above or by calling toll-free (877) 344–0513.

For general information concerning the DOE NEPA process, contact: Carol Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0103; telephone (202) 586–4600, or leave a message toll-free (800) 472–2756; fax (202) 586–7031; or send an email to askNEPA@hq.doe.gov. This second Amended NOI will be available on the Internet at *http://energy.gov/nepa.*

SUPPLEMENTARY INFORMATION:

Background

To reduce the threat of nuclear weapons proliferation, DOE is engaged in a program to disposition its surplus, weapons-usable plutonium in a safe, secure, and environmentally sound manner, by converting such plutonium into proliferation-resistant forms not readily usable in nuclear weapons. The U.S. inventory of surplus plutonium is in several forms. The largest quantity is plutonium metal in the shape of pits (a nuclear weapons component). The remainder is non-pit plutonium, which includes plutonium oxides and metal in a variety of forms and purities.

DOE already has decided to fabricate 34 metric tons (MT) of surplus plutonium into MOX fuel in the MFFF (68 FR 20134, April 24, 2003), currently under construction at SRS, and to irradiate the MOX fuel in commercial nuclear reactors used to generate electricity, thereby rendering the plutonium into a spent fuel form not readily usable in nuclear weapons.

DOE announced its intent to prepare a SPD Supplemental EIS in 2007 to analyze the potential environmental impacts of alternatives to disposition about 13 MT of surplus plutonium (72 FR 14543; March 28, 2007). DOE issued an Amended NOI in 2010 ''to refine the quantity and types of surplus weapons-usable plutonium material, evaluate additional alternatives, and no longer consider in detail one alternative identified'' in the 2007 NOI (75 FR 41850; July 19, 2010).[1] The 2007 NOI and 2010 Amended NOI are available at *http://www.nnsa.energy.gov/nepa/spdsupplementaleis* and details from them are not reproduced in this second Amended NOI.

In the 2010 Amended NOI, DOE proposed to revisit its decision to construct and operate a new Pit Disassembly and Conversion Facility (PDCF) in the F–Area at SRS (65 FR 1608; January 11, 2000) and analyze an alternative to install and operate the pit disassembly and conversion capabilities in an existing building in K–Area at SRS. With this second Amended NOI, DOE is proposing to analyze additional alternatives for pit disassembly and conversion, which could involve the use of TA–55 at LANL, H–Canyon/HB–Line at SRS, K–Area at SRS, and the MFFF at SRS. These alternatives are described below under Potential Range of Alternatives.

[1] The 2010 Amended NOI describes changes in the inventory of surplus plutonium to be analyzed in the SPD Supplemental EIS, though the total quantity remained about 13 MT. On March 30, 2011, DOE made an amended interim action determination to disposition approximately 85 kilograms (0.085 MT) of surplus, non-pit plutonium via the Defense Waste Processing Facility at SRS or disposal at the Waste Isolation Pilot Plant (WIPP) in New Mexico. On October 17, 2011, DOE made another interim action determination to dispose of 500 kilograms (0.5 MT) of surplus, non-pit plutonium at WIPP. These determinations do not affect the range of reasonable alternatives to be analyzed in the SPD Supplemental EIS.

Purpose and Need for Agency Action

DOE's purpose and need remains to reduce the threat of nuclear weapons proliferation worldwide by conducting disposition of surplus plutonium in the United States in an environmentally safe and timely manner. Comprehensive disposition actions are needed to ensure that surplus plutonium is converted into proliferation-resistant forms.

Potential Range of Alternatives

Since the 2010 Amended NOI, DOE has reconsidered the potential alternatives for pit disassembly and conversion. DOE now is proposing to analyze additional alternatives.

The EIS analysis will account for the possibility that DOE could use some combination of facilities at TA–55 at LANL, K–Area at SRS, H–Canyon/HB–Line at SRS, and MFFF at SRS to disassemble pits, and produce feed for the MFFF.

DOE has determined that the construction of a separate Plutonium Preparation (PuP) capability would not be required because the alternatives that are being considered for the disposition of non-pit plutonium include any necessary preparation activities.

The complete list of alternatives that DOE proposes to analyze in detail in the SPD Supplemental EIS is provided below.

Surplus Plutonium Disposition

DOE will analyze four alternative pathways to disposition surplus plutonium. There are constraints on the type or quantity of plutonium that may be dispositioned by each pathway. For example, there are safety (criticality) limits on how much plutonium can be sent to the Defense Waste Processing Facility (DWPF) at SRS, and some plutonium is not suitable for fabrication into MOX fuel. Accordingly, DOE expects to select two or more alternatives following completion of the SPD Supplemental EIS.

- H–Canyon/DWPF—DOE would use the H–Canyon at SRS to process surplus non-pit plutonium for disposition. Plutonium materials would be dissolved, and the resulting plutonium-bearing solutions would be sent to a sludge batch feed tank and then to DWPF at SRS for vitrification. Depending on the quantity, adding additional plutonium to the feed may

increase the amount of plutonium in some DWPF canisters above historical levels.

• Glass Can-in-Canister Immobilization—DOE would install a glass can-in-canister immobilization capability in K–Area at SRS. The analysis will assume that both surplus pit and non-pit plutonium would be vitrified within small cans, which would be placed in a rack inside a DWPF canister and surrounded with vitrified high-level waste. This alternative is similar to one evaluated in the 1999 Surplus Plutonium Disposition EIS (SPD EIS; DOE/EIS–0283), except that the capability would be installed in an existing rather than a new facility. Inclusion of cans with vitrified plutonium would substantially increase the amount of plutonium in some DWPF canisters above historical levels.

• WIPP—DOE would provide the capability to prepare and package non-pit plutonium using existing facilities at SRS for disposal as transuranic waste at WIPP, provided that the material would meet the WIPP waste acceptance criteria. This alternative may include material that, because of its physical or chemical configuration or characteristics, could not be prepared for MFFF feed material and material that could be disposed at WIPP with minimal preparation.

• MOX Fuel—Plutonium feed material, beyond the 34 MT for which a decision already has been made, would be fabricated into MOX fuel at the MFFF, and the resultant MOX fuel would be irradiated in commercial nuclear power reactors. For purposes of analyzing this alternative, the EIS will assume all the surplus pit and some of the surplus non-pit plutonium would be dispositioned in this manner.

Pit Disassembly and Conversion Capability

Plutonium pits must be disassembled prior to disposition and, for the MOX alternative, plutonium metal from pits or non-pit material must be converted to an oxide form to be used as feed in producing MOX Fuel. DOE will analyze the potential environmental impacts of conducting pit disassembly and/or conversion activities in five different facilities to support its prior decision to disposition 34 MT of surplus plutonium by fabrication into MOX fuel and also any decision subsequent to this SPD Supplemental EIS to disposition additional surplus plutonium as MOX fuel. The Pit Disassembly and Conversion Capability Alternatives that NNSA proposes to analyze are:

• PDCF in F–Area at SRS—DOE would construct, operate, and eventually decommission a stand-alone PDCF to disassemble pits and convert plutonium pits and other plutonium metal to an oxide form suitable for feed to the MFFF, as described in the SPD EIS and consistent with DOE's record of decision for that EIS (65 FR 1608; January 11, 2000).

• Pit Disassembly and Conversion Capability in K–Area at SRS—DOE would construct, operate, and eventually decommission equipment in K–Area at SRS necessary to perform the same functions as the PDCF. The alternative would include reconfiguration of ongoing K–Area operations necessary to accommodate construction and operation of the pit disassembly and conversion capability.

• New alternatives for pit disassembly and conversion:

○ LANL/MFFF—DOE would expand existing capabilities in the plutonium facility (PF–4) in Technical Area-55 at LANL to disassemble pits and provide plutonium metal and/or oxide for use as feed material in MFFF at SRS. DOE also may add a capability to the MFFF to oxidize plutonium metal.

○ LANL/MFFF/K–Area/H–Canyon/HB–Line at SRS—DOE would expand existing capabilities in the plutonium facility (PF–4) in Technical Area-55 at LANL to disassemble pits and provide plutonium metal and potentially oxide for use as feed material in MFFF at SRS. DOE also may add a capability to the MFFF to oxidize plutonium metal. To augment the capability to provide feed material to the MFFF, DOE also would disassemble pits in K–Area at SRS and process plutonium metal to an oxide form at the H–Canyon/HB–Line at SRS.

Reactor Operations

MOX fuel will be irradiated in commercial nuclear reactors used to generate electricity, thereby rendering the plutonium into a spent fuel form not readily usable in nuclear weapons.

• DOE and TVA will analyze the potential environmental impacts of any reactor facility modifications necessary to accommodate MOX fuel operation at up to five TVA reactors—the three boiling water reactors at Browns Ferry, near Decatur and Athens, AL, and the two pressurized water reactors at Sequoyah, near Soddy-Daisy, TN. DOE and TVA will analyze the potential environmental impacts of operating these reactors using a core loading with the maximum technically and economically viable number of MOX fuel assemblies.

• DOE will analyze the potential environmental impacts of irradiating MOX fuel in a generic reactor in the United States to provide analysis for any additional future potential utility customers.

Potential Decisions

The SPD Supplemental EIS will not reconsider decisions already made to disposition surplus plutonium, other than the decision to construct and operate the PDCF. DOE already has decided to fabricate 34 MT of surplus plutonium into MOX fuel in the MFFF (68 FR 20134; April 24, 2003), currently under construction at SRS, and to irradiate the MOX fuel in commercial nuclear reactors used to generate electricity. Subsequent to completion of the SPD Supplemental EIS, DOE will decide, based on programmatic, engineering, facility safety, cost, and schedule information, and on the environmental impact analysis in the SPD Supplemental EIS, which pit disassembly and conversion alternative(s) to implement to provide feed to the MFFF, which alternative(s) to implement for preparation of non-pit plutonium for disposition, whether to use the MOX alternative to disposition additional surplus plutonium (beyond 34 MT), and which alternative(s) disposition path(s) to implement for surplus plutonium that will not be dispositioned as MOX fuel. DOE may determine that it can best meet its full range of requirements in each of these areas by implementing two or more of the alternatives analyzed in the SPD Supplemental EIS. It is also possible that DOE may determine that its full range of requirements may be best met by implementing a composite set of actions that would be drawn from within the scope of the set of alternatives proposed and analyzed in the SPD Supplemental EIS.

DOE considers those alternatives that would avoid extensive construction and/or facility modification for the pit disassembly and conversion capability and non-pit plutonium preparation capability as having particular merit and, thus, has identified its preferred alternative for this proposed action. For non-pit plutonium preparation and pit disassembly and conversion of plutonium metal to MFFF feed for the manufacture of MOX fuel, DOE's preferred alternative is to use some combination of existing facilities, with additional equipment or modification, at TA–55 at LANL, K–Area at SRS, H–Canyon/HB–Line at SRS, and MFFF at SRS, rather than to construct a new, standalone facility. The MOX fuel alternative is DOE's preferred alternative for surplus plutonium disposition. DOE's preferred alternative for disposition of surplus plutonium

that is not suitable for MOX fuel fabrication is disposal at WIPP.

As stated in the 2010 Amended NOI, DOE and TVA are evaluating use of MOX fuel in up to five TVA reactors at the Sequoyah and Browns Ferry Nuclear Plants. TVA will determine whether to pursue irradiation of MOX fuel in TVA reactors, and will determine which reactors to use initially for this purpose, should TVA and DOE decide to use MOX fuel in TVA reactors.

Potential Environmental Issues for Analysis

DOE has tentatively identified the following environmental issues for analysis in the SPD Supplemental EIS. The list is presented to facilitate comment on the scope of the SPD Supplemental EIS, and is not intended to be comprehensive or to predetermine the potential impacts to be analyzed.

- Impacts to the general population and workers from radiological and nonradiological releases, and other worker health and safety impacts.
- Impacts of emissions on air and water quality.
- Impacts on ecological systems and threatened and endangered species.
- Impacts of waste management activities, including storage of DWPF canisters and transuranic waste pending disposal.
- Impacts of the transportation of radioactive materials, reactor fuel assemblies, and waste.
- Impacts that could occur as a result of postulated accidents and intentional destructive acts (terrorist actions and sabotage).
- Potential disproportionately high and adverse effects on low-income and minority populations (environmental justice).
- Short-term and long-term land use impacts.
- Cumulative impacts.

NEPA Process

The first scoping period for the SPD Supplemental EIS began on March 28, 2007, and ended on May 29, 2007, with scoping meetings in Aiken and Columbia, SC. DOE began a second public scoping period with publication of an Amended NOI on July 19, 2010, and continuing through September 17, 2010. Public scoping meetings were held in Tanner, AL; Chattanooga, TN; North Augusta, SC; and Carlsbad and Santa Fe, NM.

Following the scoping period announced in this second Amended NOI, and after considering all scoping comments received, DOE will prepare a Draft SPD Supplemental EIS. DOE will announce the availability of the Draft SPD Supplemental EIS in the **Federal Register** and local media outlets. Comments received on the Draft SPD Supplemental EIS will be considered and addressed in the Final SPD Supplemental EIS. DOE currently plans to issue the Final SPD Supplemental EIS in late 2012. DOE will issue a record of decision no sooner than 30 days after publication by the Environmental Protection Agency of a Notice of Availability of the Final SPD Supplemental EIS.

Other Agency Involvement

The Tennessee Valley Authority is a cooperating agency with DOE for preparation and review of the sections of the SPD Supplemental EIS that address operation of TVA reactors using MOX fuel assemblies. DOE invites Federal and non-Federal agencies with expertise in the subject matter of the SPD Supplemental EIS to contact the NEPA Document Manager (see **ADDRESSES**) if they wish to be a cooperating agency in the preparation of the SPD Supplemental EIS.

Issued at Washington, DC, on January 6, 2012.

Thomas P. D'Agostino,

Undersecretary for Nuclear Security.

[FR Doc. 2012–445 Filed 1–11–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13771–001, Project No. 13763–001 et al.]

Solia 8 Hydroelectric, LLC, FFP Missouri 13, LLC, et al.; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

Solia 8 Hydroelectric, LLC ..... Project No. 13771–001
FFP Missouri 13, LLC ..... Project No. 13763–001
Solia 5 Hydroelectric, LLC ..... Project No. 13766–001
Solia 4 Hydroelectric, LLC ..... Project No. 13767–001

a. *Type of Filing:* Notice of Intent To File License Application and Request to Use the Traditional Licensing Process.

b. *Project Nos.:* P–13771–001, P–13763–001, P–13766–001, P–13767–001.

c. *Date Filed:* November 16, 2011.

d. *Submitted By:* Free Flow Power Corporation on behalf of its subsidiary limited liability corporations (listed above and collectively referred to below as ''Free Flow Power'').

e. *Name of Projects:* Point Marion Lock and Dam Project, P–13771–001; Grays Landing Lock and Dam Project, P–13763–001; Maxwell Lock and Dam Project, P–13766–001; and Charleroi Lock and Dam Project, P–13767–001.

f. *Location:* At existing locks and dams owned and operated by the U.S. Army Corps of Engineers on the Monongahela River in Pennsylvania (see table below for specific project locations). The projects would occupy United States lands administered by the U.S. Army Corps of Engineers.

Project No.	Projects	County	Township
P–13771	Point Marion Lock and Dam Hydroelectric Project	Fayette	Uniontown.
P–13763	Grays Landing Lock and Dam Hydroelectric Project	Greene	Greensboro.
P–13766	Maxwell Lock and Dam Hydroelectric Project	Washington	Brownsville.
P–13767	Charleroi Lock and Dam Hydroelectric Project	Washington	Charleroi, Monessen.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Ramya Swaminathan, Chief Operating Officer, Free Flow Power, 239 Causeway Street, Boston, MA 02114–2130; (978) 283–2822; or email at *rswaminathan@free-flow-power.com.*

i. *FERC Contact:* Monir Chowdhury at (202) 502–6736; or email at *monir.chowdhury@ferc.gov.*

j. Free Flow Power filed its request to use the Traditional Licensing Process on

November 16, 2011. Free Flow Power provided public notice of its request on November 16, 2011. In a letter dated January 5, 2012, the Director of the Division of Hydropower Licensing approved Free Flow Power's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Pennsylvania Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Free Flow Power as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act, section 305 of the Magnuson-Stevens Fishery Conservation and Management Act, and section 106 of the National Historic Preservation Act.

m. Free Flow Power filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–(866) 208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

o. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: January 5, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–420 Filed 1–11–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. P–13235–002 and P–13355–001]

Middlebury Electric, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filings:* Notice of Intent To File License Application and Request to Use the Traditional Licensing Process.

b. *Project Nos.:* P–13235–002 and P–13355–001.

c. *Dates Filed:* May 5, 2011, and June 20, 2011, respectively.

d. *Submitted By:* Middlebury Electric, LLC.

e. *Name of Projects:* Middlebury Upper Hydroelectric Project and Middlebury Upper East Bank Hydroelectric Project, respectively.

f. *Location:* On Otter Creek, in Addison County, Vermont. No federal lands would be occupied by the project works or located within the proposed project boundaries.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Alders Holm, Middlebury Electric, LLC, #5 Frog Hollow Alley, Middlebury, VT 05753; (802) 388–7037.

i. *FERC Contact:* John Ramer at (202) 502–8969; or email at *john.ramer@ferc.gov*.

j. Middlebury Electric, LLC filed its requests to use the Traditional Licensing Process on May 5 and June 20, 2011, for Middlebury Upper Project, P–13235–002 and Middlebury Upper East Bank Project, P–13355–001, respectively. Middlebury Electric, LLC provided public notice of its requests on May 2, 2011, and August 18, 2011, respectively. In a letter dated October 5, 2011, the Director of the Division of Hydropower Licensing approved Middlebury Electric, LLC's requests to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Vermont State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. Middlebury Electric, LLC filed Pre-Application Documents (PADs; including proposed process plans and schedules) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. Copies of the PADs are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. For either project, enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–(866) 208–3676, or for TTY, (202) 502–8659. Copies are also available for inspection and reproduction at the address in paragraph h.

n. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to these or other pending projects. For assistance, contact FERC Online Support.

Dated: January 5, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–424 Filed 1–11–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13762–001; Project No. 13753–001]

FFP Missouri 15, LLC; FFP Missouri 16, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent To File License Application and Request to Use the Traditional Licensing Process.

b. *Project Nos.:* P–13762–001, P–13753–001.

c. *Date Filed:* November 16, 2011.

d. *Submitted By:* Free Flow Power Corporation on behalf of its subsidiary limited liability corporations (listed above and collectively referred to below as ''Free Flow Power'').

e. *Name of Projects:* Morgantown Lock and Dam Project, P–13762–001; and Opekiska Lock and Dam Project, P–13753–001.

f. *Location:* At existing locks and dams owned and operated by the U.S. Army Corps of Engineers on the Monongahela River in West Virginia

(see table below for specific project locations). The projects would occupy United States lands administered by the U.S. Army Corps of Engineers.

Project No.	Projects	County	City
P–13762	Morgantown Lock and Dam Hydroelectric Project	Monongalia	Morgantown.
P–13753	Opekiska Lock and Dam Hydroelectric Project	Monongalia	Fairmont.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Ramya Swaminathan, Chief Operating Officer, Free Flow Power, 239 Causeway Street, Boston, MA 02114–2130; (978) 283–2822; or email at *rswaminathan@free-flow-power.com.*

i. *FERC Contact:* Monir Chowdhury at (202) 502–6736; or email at *monir.chowdhury@ferc.gov.*

j. Free Flow Power filed its request to use the Traditional Licensing Process on November 16, 2011. Free Flow Power provided public notice of its request on November 16, 2011. In a letter dated January 5, 2012, the Director of the Division of Hydropower Licensing approved Free Flow Power's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the West Virginia Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Free Flow Power as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act, section 305 of the Magnuson-Stevens Fishery Conservation and Management Act, and section 106 of the National Historic Preservation Act.

m. Free Flow Power filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–(866) 208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

o. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: January 5, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–425 Filed 1–11–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–26–000]

CenterPoint Energy Gas Transmission Company, LLC; Notice of Application

Take notice that on December 7, 2011, CenterPoint Energy Gas Transmission Company, LLC (CEGT), P.O. Box 21734, Shreveport, Louisiana 71151, filed an application in the above referenced docket pursuant to section 7(b) of the Natural Gas Act (NGA) requesting authority to abandon by sale, to CenterPoint Energy Field Services, LLC (CEFS), approximately 7 miles of 6-inch diameter pipeline and separator facilities, all located in Franklin County, Arkansas. Additionally, CEGT seeks a Commission determination that the facilities, once conveyed to CEFS, will be gathering facilities exempt from the Commission's jurisdiction under Section 1(b) of the NGA, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the application should be directed to Michelle Willis, Manager, Regulatory and Compliance, CenterPoint Energy Gas Transmission Company, LLC (CEGT), P.O. Box 21734, Shreveport, Louisiana 71151 or by telephone at (318) 429–3708.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the

proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: January 26, 2012.

Dated: January 5, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–421 Filed 1–11–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1945–001; ER10–1946–001; ER10–1942–005; ER10–2042–006; ER10–1936–001; ER10–1892–001; ER10–1886–001; ER10–1872–001; ER10–1871–001; ER10–1863–001; ER10–1859–001.

Applicants: Auburndale Peaker Energy Center, L.L.C., Broad River Energy LLC, Calpine Construction Finance Company, LP, Calpine Energy Services, L.P., Carville Energy LLC, Columbia Energy LLC, Decatur Energy Center, LLC, Mobile Energy LLC, Morgan Energy Center, LLC, Pine Bluff Energy, LLC, Santa Rosa Energy Center, LLC.

Description: Updated Market Power Analysis of Auburndale Peaker Energy Center, LLC *et al.*

Filed Date: 1/3/12.

Accession Number: 20120103–5297.

Comments Due: 5 p.m. ET 3/5/12.

Docket Numbers: ER10–2739–003; ER10–2743–002; ER10–1842–003; ER10–2793–002.

Applicants: Bluegrass Generation Company, L.L.C., DeSoto County Generating Company, LLC, LS Power Marketing, LLC, Calhoun Power Company, LLC.

Description: Updated Market Power Analysis of LS Power Marketing, LLC, *et al.*

Filed Date: 1/3/12.

Accession Number: 20120103–5294.

Comments Due: 5 p.m. ET 3/5/12.

Docket Numbers: ER10–3168–002.

Applicants: ArcLight Energy Marketing, LLC.

Description: Updated Market Power Analysis for the Southeast Region of ArcLight Energy Marketing, LLC.

Filed Date: 12/30/11.

Accession Number: 20111230–5222.

Comments Due: 5 p.m. ET 3/5/12.

Docket Numbers: ER12–753–000.

Applicants: RITELine Illinois, LLC, RITELine Indiana, LLC.

Description: RITELine Illinois, LLC submits tariff filing per 35.13(a)(2)(iii): RITELine Indiana 20120103 Filing to be effective 3/4/2012.

Filed Date: 1/3/12.

Accession Number: 20120103–5125.

Comments Due: 5 p.m. ET 1/24/12.

Docket Numbers: ER12–754–000.

Applicants: Calpine Energy Services, L.P.

Description: Calpine Energy Services, L.P. submits tariff filing per 35: Revised Market-Based Rate Tariff to be effective 1/4/2012.

Filed Date: 1/3/12.

Accession Number: 20120103–5218.

Comments Due: 5 p.m. ET 1/24/12.

Docket Numbers: ER12–755–000.

Applicants: Calpine Construction Finance Company, L.P.

Description: Calpine Construction Finance Company, L.P. submits tariff filing per 35: Revision to Market-Based Rate Tariff to be effective 1/4/2012.

Filed Date: 1/3/12.

Accession Number: 20120103–5228.

Comments Due: 5 p.m. ET 1/24/12.

Docket Numbers: ER12–756–000.

Applicants: ISO New England Inc., New England Power Pool.

Description: Filing of ICR–Related Values for 2015/2016 Capability Year.

Filed Date: 1/3/12.

Accession Number: 20120103–5285.

Comments Due: 5 p.m. ET 1/24/12.

Docket Numbers: ER12–757–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc.'s Informational Filing for the Sixth Forward Capacity Auction.

Filed Date: 1/3/12.

Accession Number: 20120103–5286.

Comments Due: 5 p.m. ET 1/18/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 4, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–411 Filed 1–11–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–289–000.
Applicants: Natural Gas Pipeline Company of America LLC.
Description: Removal of Expired Agreements to be effective 2/4/2012.
Filed Date: 1/4/12.
Accession Number: 20120104–5072.
Comments Due: 5 p.m. ET 1/17/12.

Docket Numbers: RP12–290–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: submits tariff filing per 154.204: Amended Excelerate Negotiated Rate to be effective 1/1/2012.
Filed Date: 1/4/12.
Accession Number: 20120104–5144.
Comments Due: 5 p.m. ET 1/17/12.

Docket Numbers: RP12–291–000.
Applicants: High Island Offshore System, L.L.C.
Description: 2011 Fuel Interim Adjustment to be effective 2/1/2012.
Filed Date: 1/5/12.
Accession Number: 20120105–5052.
Comments Due: 5 p.m. ET 1/17/12.

Docket Numbers: RP10–1185–000.
Applicants: Tennessee Gas Pipeline Company.
Description: Supplemental Information/Request of Tennessee Gas Pipeline Company, L.L.C.
Filed Date: 10/18/11.
Accession Number: 20111018–5078.
Comments Due: 5 p.m. ET 01/12/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP12–15–003.
Applicants: Gas Transmission Northwest LLC.
Description: Reservation Credit Compliance to RP12–15 to be effective 1/12/2012.
Filed Date: 1/4/12.
Accession Number: 20120104–5099.
Comments Due: 5 p.m. ET 1/17/12.

Docket Numbers: RP11–2254–001.
Applicants: Midwestern Gas Transmission Company.
Description: submits tariff filing per 154.203: Motion to Place into Effect Part 5.0 and Part 8.32 to be effective 1/5/2012.
Filed Date: 1/6/12.
Accession Number: 20120106–5001.
Comments Due: 5 p.m. ET 1/18/12.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 6, 2012.

Nathaniel J. Davis, Sr.

Deputy Secretary

[FR Doc. 2012–412 Filed 1–11–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–37–000]

Carolina Gas Transmission Corporation; Notice of Request Under Blanket Authorization

Take notice that on December 21, 2011, Carolina Gas Transmission Corporation (Carolina Gas), 601 Old Taylor Road, Cayce, South Carolina 29033, filed in Docket No. CP12–37–000, an application pursuant to sections 157.205, 157.208 and 157.210 of the Commission's Regulations under the Natural Gas Act (NGA) as amended, to relocate three 1,050 horsepower Solar Saturn natural gas driven compressor units from the Camden Compressor Station to a new station near Bethune, Kershaw County, South Carolina, to restage the turbines once they are relocated and to make related modifications to existing facilities to facilitate the turbine relocation, under Carolina Gas's blanket certificate issued in Docket Nos. CP06–71–000, CP06–72–000 and CP06–73–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Randy D. Traylor, Jr., Carolina Gas Transmission Corporation, 601 Old Taylor Road, Cayce, South Carolina 29033, via telephone at (803) 217–2255 or email: *dtraylor@scana.com* or Shelby L. Provencher, Associate General Counsel, SCANA Corporation, Mail Code C222, 220 Operation Way, Cayce, South Carolina 29033, via telephone at (803) 217–7802 or email: *shelby.provencher@scana.com.*

Specifically, Carolina Gas proposes to move three 1,050 horsepower Solar Saturn natural gas driven turbine compressor units approximately 20 miles from the Camden Compressor Station near Camden, Kershaw County, South Carolina to the new Bethune Compressor Station near Bethune, Kershaw County, South Carolina. Carolina Gas proposes to convert the existing Camden Compressor Station to a mainline valve station, and rebuild and relocate the Bethune Junction Station to the new Bethune Compressor valve yard.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be

required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: January 5, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–422 Filed 1–11–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance at MISO Meetings

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission and Commission staff may attend the following MISO-related meetings:

- Advisory Committee (10 a.m.–1 p.m., Local Time)
  - January 18
  - February 15 (Windsor Court Hotel, 300 Gravier Street, New Orleans, LA)
  - March 14
  - April 18
  - May 16
  - July 18
  - August 22 (St. Paul Hotel, 350 Market St., St. Paul, MN)
  - September 19
  - October 17
  - November 14
  - December 12
- Board of Directors (8:30 a.m.–10 a.m., Local Time)
  - February 16 (Windsor Court Hotel, 300 Gravier Street, New Orleans, LA)
  - April 19
  - June 21 (French Lick Resort, 8670 West State Road 56, French Lick, IN)
  - August 23 (St. Paul Hotel, 350 Market St., St. Paul, MN)
  - October 18
  - December 13
- Board of Directors Markets Committee (8 a.m.–10 a.m., Local Time)
  - January 18
  - February 15 (Windsor Court Hotel, 300 Gravier Street, New Orleans, LA)
  - March 14
  - April 18
  - May 16
  - June 20 (French Lick Resort, 8670 West State Road 56, French Lick, IN)
  - July 18
  - August 22 (St. Paul Hotel, 350 Market St., St. Paul, MN)
  - September 19
  - October 17
  - November 14
  - December 12
- Board of Directors System Planning Committee
  - February 14 (5:15pm–6:15pm) (Windsor Court Hotel, 300 Gravier Street, New Orleans, LA)
  - April 18 (3:30pm–5:15pm)
  - June 19 (11:15am–12:45pm) (French Lick Resort, 8670 West State Road 56, French Lick, IN)
  - August 22 (5:00pm–6:30pm) (St. Paul Hotel, 350 Market St., St. Paul, MN)
  - October 16 (4:00–5:30pm)
  - December 12 (3:15–5:15pm)
- MISO Informational Forum (3 p.m.–5 p.m., Local Time)
  - January 18
  - February 15
  - March 15
  - April 19
  - May 17
  - June 14
  - July 19
  - August 16 (St. Paul Hotel, 350 Market St., St. Paul, MN)
  - September 13
  - October 18
  - November 15
  - December 13
- MISO Market Subcommittee (9 a.m.–5 p.m., Local Time)
  - January 31
  - February 28
  - April 3
  - May 1
  - June 5
  - July 10
  - August 7
  - September 4
  - October 2
  - October 30
  - December 4
- MISO Supply Adequacy Working Group (9 a.m.–5 p.m., Local Time)
  - February 2
  - March 1
  - April 5
  - May 3
  - June 7
  - July 12
  - August 9
  - September 6
  - October 4
  - November 1
  - December 13
- MISO Regional Expansion Criteria and Benefits Task Force (9 a.m.–5 p.m., Local Time)
  - January 26
  - February 23
  - March 22
  - April 26
  - May 24
  - June 28
  - July 26
  - August 30
  - September 27
  - October 25
  - November 29
  - December 20

Except as noted, all of the meetings above will be held at: MISO Headquarters, 701 City Center Drive, 720 City Center Drive, and Carmel, IN 46032.

Further information may be found at *www.midwestiso.org.*

The above-referenced meetings are open to the public.

The discussions at each of the meetings described above may address matters at issue in the following proceedings:

Docket No. RM01–5, *Electronic Tariff Filings*

Docket Nos. ER04–691, EL04–104 and ER04–106, *et al., Midwest Independent Transmission System Operator, Inc., et al.*

Docket No. ER05–6, *et al., Midwest Independent Transmission System Operator, Inc., et al.*

Docket No. ER05–636, *Midwest Independent Transmission System Operator, Inc.*

Order No. 890, *Preventing Undue Discrimination and Preference in Transmission Service*

Docket Nos. ER06–18, *et al., Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06–56, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06–192, *Midwest Independent Transmission System Operator, Inc.*

Order Nos. 693 and 693–A, *Mandatory Reliability Standards for Bulk-Power System*

Docket No. AD07–12, *Reliability Standard Compliance and Enforcement in Regions with Independent System Operators and Regional Transmission Organizations*

Docket No. ER07–1182, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER07–1372, *Midwest Independent Transmission System Operator, Inc.*
Docket Nos. RR07–2, *et al., Delegation Agreement Between the North American Electric Reliability Corporation and Midwest Reliability Organization, et al.*
Docket No. EL08–32, *Central Minnesota Municipal Power Agency and Midwest Municipal Transmission Group, Inc.*
Docket No. OA08–53, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–194, *et al., Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–394, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–925, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1074, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1169, *Midwest Independent Transmission System Operator, Inc.*
Docket No. RM08–19, *Mandatory Reliability Standards for the Calculation of Available Transfer, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk Power System*
Docket No. AD09–10, *National Action Plan on Demand Response*
Docket No. AD09–15, *Version One Regional Reliability Standard for Resource and Demand Balancing.*
Docket No. ER09–1049, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1074, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1431, *Midwest Independent Transmission System Operator, Inc.*
Docket No. AD10–5, *RTO/ISO Performance Metrics.*
Docket No. AD10–14, *Reliability Standards Development and NERC and Regional Entity Enforcement.*
Docket No. EC10–39, *American Transmission Company, LLC.*
Docket No. EL10–41, *Tatanka Wind Power, LLC v. Montana-Dakota Utilities Company, a division of MDU Resources Group, Inc.*
Docket No. EL10–45, *Midwest Independent Transmission System Operator, Inc. v. PJM Interconnection, LLC.*
Docket No. EL10–46, *Midwest Independent Transmission System Operator, Inc. v. PJM Interconnection, LLC.*
Docket No. EL10–60, *PJM Interconnection, LLC v. Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–8, *Midwest Independent Transmission System Operator, Inc.*
Docket Nos. ER10–9, 10–73, 10–74, *Dairyland Power Cooperative v. Midwest Independent Transmission System Operator, Inc.*
Docket Nos. ER10–209, EL10–12, and ER10–640, *Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc. v. Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1791, *Midwest Independent Transmission System Operator, Inc. and the Midwest ISO Transmission Owners*
Docket No. ER10–2090, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–2283, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ES10–31, *Midwest Independent Transmission System Operator, Inc.*
Docket No. PL10–4, *Enforcement of Statutes, Orders, Rules, and Regulations*
Docket No. RM09–13, *Time Error Correction Reliability Standard*
Docket No. RM10–9, *Transmission Loading Relief Reliability Standard and Curtailment Priorities*
Docket No. RM10–11, *Integration of Variable Energy Resources*
Docket No. RM10–13, *Credit Reforms in Organized Wholesale Electric Markets*
Docket No. RM10–17 and EL09–68, *Demand Response Compensation in Organized Wholesale Energy Markets*
Docket No. RM10–23 and Order No. 1000, *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*
Docket No. ER11–15, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER11–138, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER11–1991, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER11–3225, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER11–2275, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER11–2700, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER11–3279, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER11–4081, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER11–3728, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER11–3572, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER11–4305, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–33, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–56, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–212, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–214, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–242, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–274, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–290, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–297, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–309, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–310, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–312, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–334, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–351, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER11–3415, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–427, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–450, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–451, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–480, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–517, *Midwest Independent Transmission System Operator, Inc.*

Docket No. OA08–53, *Midwest Independent Transmission System Operator, Inc.*

Docket No. EL12–11, *Rail Splitter Wind Farm* v. *Ameren and MISO*

For more information, contact Patrick Clarey, Office of Energy Markets Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov,* or Christopher Miller, Office of Energy Markets Regulation, Federal Energy Regulatory Commission at (317) 249–5936 or *christopher.miller@ferc.gov.*

Dated: January 5, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–423 Filed 1–11–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0053; FRL–9617–6]

Agency Information Collection Activities; Proposed Collection; Comment Request; Clean Air Interstate Rule To Reduce Interstate Transport of Fine Particle Matter and Ozone (Renewal); EPA ICR No. 2152.05, OMB Control No. 2060–0570

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) for the Clean Air Interstate Rule (CAIR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on February 29, 2012. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments may be submitted on or before March 12, 2012.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2003–0053.

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-Docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Air Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

Hand Delivery: Docket Center, (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2003–0053. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Karen VanSickle, Clean Air Markets Division, (6204J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9220; fax number: (202) 343–2361; email address: *vansickle.karen@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under EPA Docket ID No. EPA–HQ–OAR–2003–0053, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Air and Radiation Docket, in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

Use EPA's electronic docket and comment system at *www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Docket ID No. EPA–HQ–OAR–2003–0053

Affected entities: Entities potentially affected by this action are units producing electric power which are affected by the Clean Air Interstate Rule (CAIR).

Title: Clean Air Interstate Rule to Reduce Interstate Transport of Fine Particle Matter and Ozone (Renewal).

ICR number: EPA ICR No. 2152.05, OMB Control No. 2060–0570.

ICR Status: This ICR is currently scheduled to expire on February 29, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The United States (U.S.) Environmental Protection Agency (EPA) promulgated the Clean Air Interstate Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone, which includes reporting requirements and combines these requirements with existing requirements from the Consolidated Emissions Reporting Rule (CERR), the Emission Reporting Requirements for Ozone State Implementation Plan (SIP) Revisions Relating to Statewide Budgets for NO_X Emissions to Reduce Regional Transport of Ozone (NO_X SIP Call) and the Acid Rain Program under Title IV of the CAA Amendments of 1990. Each of these three existing requirements has an approved ICR in place. The current ICRs are: For the CERR, ICR #0916.13, for the NO_X SIP Call, ICR #1857.05, and for the Acid Rain Program, ICR #1633.15. The supporting statement references the burden analysis included in ICR #s 0916.13, 1857.05, and 1633.15. This ICR renewal is open for public review and comment.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 77 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Estimated total number of potential respondents: 1,221.

Frequency of response: Quarterly.

Estimated total annual burden hours: 407,039 hours.

Estimated total annual costs: $51,492,383, which included $26,329,380 in capital and O&M costs.

This ICR incorporates the burden associated with all CAIR-affected sources, including those located in NO_X SIP Call States.

Are there changes in the estimates from the last approval?

To date, there are no changes in the number of hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. However, EPA is still evaluating information that may lead to a change in the estimates.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: January 5, 2012.

Larry F. Kertcher,

Acting Director, Clean Air Markets Division.

[FR Doc. 2012–456 Filed 1–11–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9617–7]

National Advisory Council for Environmental Policy and Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92463, EPA gives notice of a public meeting of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice to the EPA Administrator on a broad range of environmental policy, technology, and management issues. NACEPT members represent academia, industry, non-governmental organizations, and local, state, and tribal governments. The purpose of this meeting is to begin developing recommendations to the Administrator regarding actions that EPA can take in response to the National Academy of Sciences Report on ''Incorporating Sustainability in the U.S Environmental Protection Agency.'' A copy of the agenda for the meeting will be posted at *http://www.epa.gov/ofacmo/nacept/cal-nacept.htm.*

DATES: NACEPT will hold a two-day public meeting on Monday, February 13, 2012, from 9 a.m. to 5:30 p.m. (EST) and Tuesday, February 14, 2012, from 8:30 a.m. to 2 p.m. (EST).

ADDRESSES: The meeting will be held at the EPA Potomac Yard Conference Center, One Potomac Yard, 2777 S. Crystal Dr., Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mark Joyce, Acting Designated Federal Officer, *joyce.mark@epa.gov,* (202) 564–2130, U.S. EPA, Office of Federal Advisory Committee Management and Outreach (1601M), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make oral comments or to provide written comments to NACEPT should be sent to Eugene Green at *green.eugene@epa.gov* by Monday, February 6, 2012. The meeting is open to the public, with limited seating available on a first-come, first-served basis. Members of the public wishing to attend should contact Eugene Green at *green.eugene@epa.gov* or (202) 564–2432 by February 6, 2012.

Meeting Access: Information regarding accessibility and/or accommodations for individuals with disabilities, should be directed to Eugene Green at the email address or phone number listed above. To ensure adequate time for processing, please make requests for accommodations at least 10 days prior to the meeting.

Dated: January 4, 2012.

Mark Joyce,

Acting Designated Federal Officer.

[FR Doc. 2012–457 Filed 1–11–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9618–1]

Notification of a Public Teleconference of the Science Advisory Board Committee on Science Integration for Decision Making

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public teleconference of the SAB Committee on Science Integration for Decision Making.

DATES: The teleconference date is January 31, 2012 from 1 p.m. to 4 p.m. (Eastern Time).

ADDRESSES: The meeting will be held by teleconference only.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain further information about this teleconference must contact Dr. Angela Nugent, Designated Federal Officer (DFO). Dr. Nugent may be contacted at the EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; or via telephone/voice mail; (202) 565–2218; fax (202) 564–2050; or email at *nugent.angela@epa.gov.* General information about the EPA SAB, as well as any updates concerning the public meeting announced in this notice, may be found on the SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2 (FACA), notice is hereby given that the SAB Committee on Science Integration for Decision Making will hold a public teleconference to discuss a draft report based on fact-finding activities conducted as part of a study of science integration supporting EPA decision making. The SAB was established pursuant to 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under FACA. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: The SAB is undertaking an advisory activity to provide recommendations to strengthen science integration for EPA's environmental decisions. The purpose of the January 31, 2012 teleconference is for the SAB committee to discuss a draft report. Additional information about this advisory activity may be found on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Science%20Integration?OpenDocument.*

Availability of Meeting Materials: The agenda and other material in support of this upcoming meeting are posted on the SAB Web site at *http://www.epa.gov/sab.*

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information on the topic of this advisory activity for the SAB to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker. Interested parties should contact Dr. Nugent, DFO, in writing (preferably via email) at the contact information noted above, by January 26, 2012 to be placed on a list of public speakers for the teleconference. *Written Statements:* Written statements should be received in the SAB Staff Office by January 26, 2012 so that the information may be made available to the SAB committee members for their consideration. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via email (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format). Submitters are requested to provide two versions of each document submitted with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Nugent at the phone number or email address noted above, preferably at least ten days prior to the teleconference to give EPA as much time as possible to process your request.

Dated: January 5, 2012.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2012–450 Filed 1–11–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required b y the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information

collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before February 13, 2012. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, FCC, at (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0207.

Title: Part 11—Emergency Alert System (EAS).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 3,569,028 respondents; 3,569,028 responses.

Estimated Time per Response: .0229776 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Voluntary response for business or other for-profit and not-for-respondents. Mandatory response for state, local or tribal government. Statutory authority for this information collection is contained in 47 U.S.C. sections 154(i) and 606 of the Communications Act of 1934, as amended.

Total Annual Burden: 82,008 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) during this 30 day comment period in order to obtain the full three year clearance from them. The Commission is requesting OMB approval for an extension (no change in the reporting, recordkeeping and/or third party disclosure requirements).

There is no change in the Commission's previous burden estimates.

The Commission established a voluntary electronic method of complying with the reporting that EAS participants must complete as part of the national EAS test. This electronic sub mission system will impose a lesser burden on EAS test participants because they can input electronically (via a web-based interface) the same information into a confidential database that the Commission would use to monitor and assess the test. Test participants would submit the identifying data prior to the test date. On the day of the test, EAS test participants would be able to input immediate test results. They would input the remaining data called for by our reporting rules within the 45 day period. Structuring an electronic reporting system in this fashion will allow the participants to populate the database with known information prior to the test, and thus be able to provide the Commission with actual test data, both close to real time and within a reasonable period in a minimally burdensome fashion.

OMB Control Number: 3060–0763.

Title: ARMIS Customer Satisfaction Report.

Report No.: FCC Report 43–06.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 7 respondents; 7 responses.

Estimated Time per Response: 720 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. sections 161, 219(b) and 220 of the Communications Act of 1934, as amended.

Total Annual Burden: 5,040 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Ordinarily questions of a sensitive nature are not asked in the ARMIS Customer Satisfaction Report. The areas in which detailed information is required are fully subject to regulation and the issue of data being regarded as sensitive will arise in special circumstances only. In such circumstances, the respondent is instructed on the appropriate procedures to follow to safeguard sensitive data. Any respondent who submits information to the Commission that the respondent believes is confidential may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) during this 30 day comment period in order to obtain the full three year clearance from them. The Commission is requesting OMB approval for an extension (no change in the reporting, recordkeeping and/or third party disclosure requirements).

There is no change in the Commission's previous burden estimates.

The information contained in FCC Report 43–06 has helped the Commission fulfill its regulatory responsibilities. Automated reporting of these data greatly enhances the Commission's ability to process and analyze the extensive amounts of data provided in the reports. Automating and organizing data submitted to the Commission facilitate the timely and efficient analysis of revenue requirements, rates of return and price caps, and provide an improved basis for auditing and other oversight functions. Automated reporting also enhances the Commission's ability to quantify the effects of policy proposals.

The Commission has granted AT&T, Verizon, legacy Quest, and other similarly situated carriers conditional forbearance from FCC Report 43–06. See Petition of AT&T Inc. for Forbearance under 47 U.S.C. section 160 from Enforcement of Certain of the Commission's Cost Assignment Rules, WC Docket Nos. 07–21, 05–342, Memorandum Opinion and Order, 23 FCC Rcd 7302 (2008) (AT&T Cost Assignment Forbearance Order, pet. for recon. pending; pet. for review pending, NASUCA v. FCC, Case No. 08–1226 (DC Cir. Filed June 23, 2008); Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, WC Docket Nos. 08–190, 07–139, 07–204, 07–273, 07–21, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 23 FCC Rcd 13647 (2008) (Verizon/Qwest Cost Assignment Forbearance Order, pet. for recon. pending, pet. for review pending, *NASUCA* v. *FCC,* Cast No. 08–1353 (D.C. Cir. Filed Nov. 4, 2008). Despite this forbearance, the Commission seeks OMB approval for the renewal (extension) of this information collection because petitions for reconsideration and review of those

forbearance decisions are currently pending before the Commission and the court, respectively.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–432 Filed 1–11–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before March 12, 2012. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via email to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0249.

Title: Sections 74.781, 74.1281 and 78.69, Station Records.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; Not-for-profit institutions; State, Federal or Tribal Governments.

Number of Respondents and Responses: 13,811 respondents; 20,724 responses.

Estimated Time per Response: .375 hour—1 hour.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 11,726 hours.

Total Annual Costs: $8,295,600.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: 47 CFR 74.781 requires the following:

(a) The licensee of a low power TV, TV translator, or TV booster station shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this Chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning.

(2) The date and time the extinguishment or improper operation was observed or otherwise noted.

(3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.765(c) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years.

47 CFR 74.1281 requires the following:

(a) The licensee of a station authorized under this Subpart shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, maintenance records, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning.

(2) The date and time the extinguishment of improper operation was observed or otherwise noted.

(3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.1265(b) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years.

47 CFR 78.69 requires each licensee of a CARS station shall maintain records showing the following:

(a) For all attended or remotely controlled stations, the date and time of the beginning and end of each period of transmission of each channel;

(b) For all stations, the date and time of any unscheduled interruptions to the transmissions of the station, the duration of such interruptions, and the causes thereof;

(c) For all stations, the results and dates of the frequency measurements

made pursuant to § 78.113 and the name of the person or persons making the measurements;

(d) For all stations, when service or maintenance duties are performed, which may affect a station's proper operation, the responsible operator shall sign and date an entry in the station's records, giving:

(1) Pertinent details of all transmitter adjustments performed by the operator or under the operator's supervision.

(e) When a station in this service has an antenna structure which is required to be illuminated, appropriate entries shall be made as follows:

(1) The time the tower lights are turned on and off each day, if manually controlled.

(2) The time the daily check of proper operation of the tower lights was made, if an automatic alarm system is not employed.

(3) In the event of any observed or otherwise known failure of a tower light:

(i) Nature of such failure.

(ii) Date and time the failure was observed or otherwise noted.

(iii) Date, time, and nature of the adjustments, repairs, or replacements made.

(iv) Identification of Flight Service Station (Federal Aviation Administration) notified of the failure of any code or rotating beacon light not corrected within 30 minutes, and the date and time such notice was given.

(v) Date and time notice was given to the Flight Service Station (Federal Aviation Administration) that the required illumination was resumed.

(4) Upon completion of the 3-month periodic inspection required by § 78.63(c):

(i) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators, and alarm systems.

(ii) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the date such adjustments, replacements, or repairs were made.

(f) For all stations, station record entries shall be made in an orderly and legible manner by the person or persons competent to do so, having actual knowledge of the facts required, who shall sign the station record when starting duty and again when going off duty.

(g) For all stations, no station record or portion thereof shall be erased, obliterated, or willfully destroyed within the period of retention required by rule. Any necessary correction may be made only by the person who made the original entry who shall strike out the erroneous portion, initial the correction made, and show the date the correction was made.

(h) For all stations, station records shall be retained for a period of not less than 2 years. The Commission reserves the right to order retention of station records for a longer period of time. In cases where the licensee or permittee has notice of any claim or complaint, the station record shall be retained until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for filing of suits upon such claims.

OMB Control Number: 3060–0716.

Title: Sections 73.88, 73.318, 73.685 and 73.1630, Blanketing Interference.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; and Not-for-profit institutions.

Number of Respondents and Responses: 21,000 respondents; 21,000 responses.

Estimated Time per Response: 1 to 2 hours.

Frequency of Response: Third party disclosure requirement.

Total Annual Burden: 41,000 hours.

Total Annual Costs: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Nature and Extend of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: 47 CFR 73.88 (AM) states that the licensee of each broadcast station is required to satisfy all reasonable complaints of blanketing interference within the 1 V/m contour.

47 CFR 73.318(b)(FM) states that after January 1, 1985, permittees or licensees who either (1) commence program tests, (2) replace the antennas, or (3) request facilities modifications and are issued a new construction permit must satisfy all complaints of blanketing interference which are received by the station during a one year period. 47 CFR 73.318(c)(FM) states that a permittee collocating with one or more existing stations and beginning program tests on or after January 1, 1985, must assume full financial responsibility for remedying new complaints of blanketing interference for a period of one year. Under 47 CFR 73.88(AM), 73.318(FM), and 73.685(d)(TV), the license is financially responsible for resolving complaints of interference within one year of program test authority when certain conditions are met. After the first year, a license is only required to provide technical assistance to determine the cause of interference. The FCC has an outstanding Notice of Proposed Rulemaking (NPRM) in MM Docket No. 96–62, In the Matter of Amendment of Part 73 of the Commission's Rules to More Effectively Resolve Broadcast Blanketing Interference, Including Interference to Consumer Electronics and Other Communications Devices. The NPRM has proposed to provide detailed clarification of the AM, FM, and TV licensee's responsibilities in resolving/eliminating blanketing interference caused by their individual stations. The NPRM has also proposed to consolidate all blanketing interference rules under a new section 47 CFR 73.1630, ''Blanketing Interference.'' This new rule has been designed to facilitate the resolution of broadcast interference problems and set forth all responsibilities of the licensee/permittee of a broadcast station. To date, final rules have not been adopted.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–434 Filed 1–11–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of

information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 12, 2012. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov*. To submit your PRA comments by email send them to: *PRA@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0645.

Title: Sections 17.4, 17.48 and 17.49, Antenna Structure Registration Requirements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 2,500 respondents; 268,700 responses.

Estimated Time per Response: .1–.25 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

Total Annual Burden: 29,155 hours.

Total Annual Cost: $53,000.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission is seeking OMB approval for an extension of this information collection in order to obtain the full three year approval. The Commission has adjusted its burden and cost estimates in order to update the collection burdens necessary to implement a uniform registration process as well as safe and effective lighting procedures for owners of antenna structures.

Section 17.4 requires the owner of any proposed or existing antenna structure that requires notice of proposed construction to the Federal Aviation Administration (FAA) to register the structure with the Commission. Section 17.4 also requires antenna structure owners to provide their tenants with copies of the antenna structure registration. This includes those structures used as part of the stations licensed by the Commission for the transmission of radio energy, or to be used as part of a cable television head-end system. If a Federal Government antenna structure is to be used by a Commission licensee, the structure must be registered with the Commission. A registration number is issued to identify antenna structure owners in order to enforce the Congressionally-mandated provisions related to the owners.

Sections 17.48 and 17.49 contain reporting and recordkeeping requirements. Section 17.48 requires the notification of the FAA of any extinguishment or improper functioning of antenna structure lighting, and section 17.49 requires the recording of antenna structure light inspections in the owner's record.

The information collected is used by the Commission during investigations related to air safety and if the information were not collected, the Commission would not be able to adequately conduct these investigations. The information is also used to protect air safety by ensuring that pilots are adequately informed of lighting outages.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–433 Filed 1–11–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for a license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF)—Ocean Transportation Intermediary (OTI) pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. chapter 409 and 46 CFR part 515). Notice is also hereby given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a license.

Interested persons may contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov*.

ADS Air & Ocean Freight, LLC (NVO), 11155 NW 33rd Street, Doral, FL 33172, Officers: Julieth X. Zapata, Operations Coordinator/Secretary, (Qualifying Individual), Ana M. Mazza, Manager Member, Application Type: New NVO License.

Atlas Latin Cargo LLC (NVO & OFF), 5065 NW 74th Avenue, Miami, FL 33166, Officers: Alfredo Peraza, Jr., Manager, (Qualifying Individual), Gil De Freitas, Member Manager, Application Type: New NVO & OFF License.

Besco Shippers, Inc. (NVO), 5425 Baltimore Avenue, Philadelphia, PA 19143, Officers: Ludlow Harding, President, (Qualifying Individual), Marjorie Harding, Vice President, Application Type: New NVO License.

Caribbean Shipping Solutions LLC (NVO), 689 Main Street, Suite H, Stone Mountain, GA 30083, Officers: Paul S. Philip, Vice President of Shipping Operations, (Qualifying Individual), Joyce C. Philip, President, Application Type: New NVO License.

CCE, LLC dba Classic Car Export (OFF), 10307 W. 127th Terrace, #190, Overland Park, KS 66213, Officer: Steven A. Sharpe, Manager, (Qualifying Individual), Application Type: New OFF License.

CTS International Logistic, Inc. dba Cargo, Transport System (NVO), 1050 Sainte-Elisabeth, Suite #2, Montreal, Quebec Canada, Officers: Matthew Mirizzi, President, (Qualifying Individual), Mike Easton, Vice President, Application Type: New NVO License.

Dsecargonet USA, Inc (NVO), 3625 Del Amo Blvd., #275, Torrance, CA 90503, Officers: Je Ha, Secretary, (Qualifying Individual), Myung K. Chai, President/CEO, Application Type: QI Change.

Eurotrans International Inc. (NVO), 1309 Temple Grove Court, Winter Park, FL 32789, Officer: Brian Lux, President, (Qualifying Individual), Application Type: New NVO License.

HDS Freight Services of California, Inc. dba, HDS Freight Services (OFF), 15 W. Mill Street, #203, Bayfield, CO 81122, Officers: James Tencza, President, (Qualifying Individual), Jennifer Tencza, Secretary/Treasurer, Application Type: New OFF License.

Interlink Cargo Logistics, LLC (NVO & OFF), 76 Loy Avenue, Riverdale, NJ 07457, Officer: Kris K. Kim, Member, (Qualifying Individual), Application Type: New NVO & OFF License.

International Partners, LLC (OFF), 7351 Lockport Place, Lorton, VA 22079, Officer: Edward F. Erskine, Jr, President, (Qualifying Individual), Application Type: New OFF License.

Joma Logistics Inc. (NVO & OFF), 12604 Canterbury Drive, Plainfield, IL 60585, Officers: Nie Xu, Director/Secretary, (Qualifying Individual), Kai Tu, President, Application Type: New NVO & OFF License.

Neutral Sea, LLC (NVO & OFF), 8400 NW 25 Street, #100, Miami, FL 33122, Officers: German Serrano, Executive Vice President, (Qualifying Individual), Alexander Tellez, CEO/Manager, Application Type: Add OFF Service.

Original U.S.A. Group Corp. (NVO), 145–30 156th Street, #202, Jamaica, NY 11434, Officer: Chuan Yu, President/Secretary/Treasurer, (Qualifying Individual), Application Type: New NVO License.

Radiant Overseas Express, Inc. (NVO), 9333 Elm Vista Drive, #9, Downey, CA 90242, Officer: Cynthia Choi, CEO/CFO/Secretary, (Qualifying Individual), Application Type: New NVO License.

Sentry Household Shipping, Inc. dba Sentry International, dba Suddath International (NVO), 815 S. Main Street, Jacksonville, FL 32207, Officers: Stephen F. Crooks, President, (Qualifying Individual), Joanna K. Aman, Assistant Secretary, Application Type: Trade Name Change.

Steele Logistics, LLC (NVO), 10722 La Cienega Blvd., Inglewood, CA 90304, Officer: Rene N. Steele, Member, (Qualifying Individual), Application Type: New NVO License.

Universal Cargo Management, Inc. (NVO & OFF), 10825 Washington Blvd., Culver City, CA 90232, Officers: Devin Burke, CEO, (Qualifying Individual), Shirley Burke, President, Application Type: Add OFF Service.

Yes Logistics Corporation (NVO & OFF), 3675 E. Huntington Drive, Suite 210, Pasadena, CA 91107, Officers: John S. Hsi, Assistant Vice President, (Qualifying Individual), Vincent Huang, CFO, Application Type: QI Change.

Dated: January 6, 2012.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2012–417 Filed 1–11–12; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Reissuance

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/Address	Date reissued
004365F	Logistics Management International, Inc., 600 Rinehart Road, Suite 1012, Lake Mary, FL 32746	November 10, 2011.
019085NF	Hanjin Logistics, Inc., 80 East Route 4, Suite 490, Paramus, NJ 07652	October 16, 2011.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2012–416 Filed 1–11–12; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocation

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515, effective on the corresponding date shown below:

License Number: 018906NF.

Name: Tri-Net Logistics Management, Inc.

Address: One Civic Plaza Drive, Suite 455, Carson, CA 90745.

Date Revoked: December 14, 2011.

Reason: Voluntarily surrendered license.

License Number: 020594N.

Name: Transmodal Logistics International Inc.

Address: 6611 Woodwards Road, Richmond, British Columbia V6X 249.

Date Revoked: November 21, 2011.

Reason: Voluntarily surrendered license.

License Number: 023527N.

Name: TM Express, LLC.

Address: 16925 Colchester Way, Hacienda Heights, CA 91745.

Date Revoked: November 14, 2011.

Reason: Voluntarily surrendered license.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2012–415 Filed 1–11–12; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–12–0806]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call (404) 639–7570 and send comments to Kimberly Lane, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

All Age Influenza Hospitalization Surveillance (Flu Hosp)—OMB 0920–0806, revision Expiration March 31, 2012—National Center for Immunization and Respiratory Diseases (NCIRD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting extension of an OMB-approved data collection instrument for monitoring laboratory-confirmed influenza hospitalizations (OMB 0920–0806, Exp March 31, 2012). Previously, two separate OMB-approved tools were used for this project: one for pediatric influenza hospitalizations (persons <18 years of age) and one for adult cases. As many of the same questions were asked separately in both the pediatric and adult forms, the rationale for consolidating these forms into one instrument is to minimize paperwork at the state/site level. Using one collection tool should also decrease the likelihood of errors in information collection and entry, improve the timeliness of data transmission to CDC, and minimize the overall burden on respondents of information collection.

The All Age Influenza Hospitalization Surveillance (Flu Hosp) project is part of the Emerging Infections Program (EIP). EIP is a CDC-state-academic institution collaborative network including California, Colorado, Connecticut, Georgia, Maryland, Minnesota, New Mexico, New York, Oregon and Tennessee. The consolidated Flu Hosp information collection instrument will be used to more efficiently collect demographic and clinical information about laboratory-confirmed influenza hospitalizations among adults and children in a geographic- and population-defined area of the United States. EIP sites will continue collecting patient information during the influenza season (October 1 of the current year to April 30 of the following year) and transmit it to CDC on a weekly basis. Case reports are submitted as soon as possible after case identification and investigation. Timely reports to CDC allow for rapid identification of epidemics, outbreaks and affected groups so that preventive measures can be quickly taken, and pertinent recommendations and policies can be made. The Flu Hosp data are also used for making influenza vaccination recommendations and modeling the burden of influenza morbidity and mortality.

The entire data collection instrument can be completed from review of the hospital medical records. The only exception is in regard to the influenza vaccination status which, if not available in the medical record, may involve an interview of the patient or patient proxy. Influenza vaccination status information is crucial for allowing CDC to assess the influenza vaccination program performance.

The respondents for the data collection instrument are the Flu Hosp participating sites. There are no costs to respondents other than their time for participating.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Health Department	All Age Influenza Hospitalization Surveillance Project Case Report Form.	10	400	15/60	1000
Total					1000

Dated: January 6, 2012.

Kimberly Lane,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2012–472 Filed 1–11–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–12–0828]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call (404) 639–7570 or send comments to Kimberly Lane, CDC Reports Clearance Officer, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

National Adult Tobacco Survey (NATS) (OMB No. 0920–0828, exp. 10/31/2010)—Reinstatement with Changes—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC) and the Center for Tobacco Products (CTP), Food and Drug Administration (FDA).

Background and Brief Description

Tobacco use remains the leading preventable cause of disease and death in the United States, resulting in approximately 440,000 deaths annually. Smokers die an average of 14 years earlier than non-smokers. Moreover, cigarette smoking costs more than $193 billion; $97 billion in lost productivity plus $96 billion in health care expenditures. Although the prevalence of current smoking among adults in the United States has declined significantly since 1964, in more recent years (2004 to 2010) these declines have slowed or stalled with 1 in 5 adults reporting current smoking. In addition, promotion of non-cigarette tobacco products is leading to increased diversity of tobacco product usage, including the use of multiple products.

With passage of the Family Smoking Prevention and Tobacco Control Act (FSPTCA) in 2009, the Food and Drug Administration is legally mandated to regulate tobacco products for the protection of public health. Congress passed the FSPTCA to discourage tobacco use among minors and young adults, to encourage cessation among adult smokers and to reduce the public health burden of tobacco related disease in the U.S. Under the Tobacco Control Act, FDA has been granted broad authority to use the best available science to develop and implement effective strategies to protect the public's health. FDA authority includes setting and enforcing standards for tobacco product ingredients and design, establishing good manufacturing practices, instituting tobacco product labeling and health warnings; prohibiting marketing that is misleading to consumers and developing enforcement authorities to act quickly and effectively to remove violating products. In addition, the FSPTCA gives FDA the authority to assert jurisdiction over cigars and other currently unregulated tobacco products. Finally, FDA's regulatory authority involves considering whether the marketing of tobacco products might encourage people who don't use tobacco products to begin using them, encourage people who might otherwise quit to continue using tobacco, or encourage former users to relapse.

In order to ensure that FDA is in compliance with the Tobacco Control Act's mandate to protect the public health, annual data collection is needed at least initially to monitor the benefits and potential adverse consequences of FDA's regulatory actions, as the regulatory framework is being established. The FDA must regularly monitor patterns of tobacco product usage—novel tobacco products as well as cigarettes—to identify changes in susceptibility and rates of tobacco use initiation, perceptions regarding tobacco use, and rates of tobacco use cessation. Rather than develop a completely new system to monitor measures critical to FDA, and thereby increasing burden to the population, FDA has partnered with CDC to leverage the existing NATS system. While NATS has been re-designed to meet the critical data needs of the FDA, many of the measures are relevant to CDC's National Tobacco Control Program (NTCP), and CDC also will use the NATS data to evaluate the NTCP. Many of the NATS questions reflect CDC's key outcome indicators for evaluating tobacco control programs.

CDC proposes to conduct three annual cycles of the National Adult Tobacco Survey (NATS) to collect data necessary to evaluate the effectiveness of FDA's initial regulatory actions. The NATS will be a stratified, random-digit dialed telephone survey of non-institutionalized adults 18 years of age and older. To yield results that are representative nationally, information will be collected from 56,250 landline respondents. In addition, to include the growing population of households that exclusively use cell phones and would be missed in a survey relying only on land-lines, information will be collected from 18,750 cell phone respondents who do not have a landline. To obtain the target number of completed telephone interviews, approximately 166,000 respondents will be contacted for initial eligibility screening.

Response is voluntary. Study results will have significant implications for the development and periodic adjustment of policies and programs aimed at preventing and reducing tobacco use in the United States. There are no costs to respondents except their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Adults ages 18 or older	Screener for land-line users (pp 67–78 of the NATS).	125,000	1	2/60	4,167
	Screener for cell phone users (pp 79–86 of the NATS).	41,000	1	1/60	683
	National Adult Tobacco Survey (pp 5–66 of the NATS)—landline.	56,250	1	20/60	18,750
	National Adult Tobacco Survey (pp 5–66 of the NATS)—cell phone.	18,750	1	20/60	6,250
Total					29,850

Dated: January 6, 2012.

Kimberly Lane,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2012–474 Filed 1–11–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Strategies for the protection of Pregnant Women and Infants Against Infectious Diseases (R01)

Date: February 2–3, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Washington DC–Silver Spring, Silver Spring, MD 20910.

Contact Person: B. Duane Price, Ph.D., Scientific Review Officer, Scientific Review Program, DHHS/NIH/NIAID/DEA, Room 3139, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, (301) 451–2592, *pricebd@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01).

Date: February 3, 2012.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call)

Contact Person: Raymond Richard Schleef, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 451–3679, *schleefrr@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–459 Filed 1–11–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Alternative Medicine; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel; Clinical Studies of CAM Therapies.

Date: January 30, 2012.

Time: 1:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Hungyi Shau, Ph.D., Scientific Review Officer, National Center for Complementary and Alternative Medicine, National Institutes of Health, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892, (301) 402–1030, *Hungyi.Shau@nih.gov.*

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel.

Date: February 24, 2012.

Time: 7 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Peter Kozel, Ph.D., Scientific Review Officer, NCCAM, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892–5475, (301) 496–8004, *kozelp@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: January 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–460 Filed 1–11–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of a meeting of the Board of Scientific Counselors, Lister Hill Center for Biomedical Communications.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for review, discussion, and evaluation of individual intramural programs and projects conducted by the National Library of Medicine, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, Lister Hill Center for Biomedical Communications.

Date: April 5–6, 2012.

Open: April 5, 2012, 9 a.m. to 11:30 a.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill Center for Biomedical Communications.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: April 5, 2012, 11:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: April 6, 2012, 8:30 a.m. to 10 a.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill Center for Biomedical Communications.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Karen Steely, Program Assistant, Lister Hill Center for Biomedical Communications, National Library of Medicine, Building 38A, Room 7S709, Bethesda, MD 20892, (301) 435–3137. *ksteely@mail.nih.gov.*

Open: April 6, 2012, 10 a.m. to 11:30 a.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill Center for Biomedical Communications.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Karen Steely, Program Assistant, Lister Hill Center for Biomedical Communications, National Library of Medicine, Building 38A, Room 7S709, Bethesda, MD 20892, (301) 435–3137, *ksteely@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance

onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: January 6, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–463 Filed 1–11–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Career Enhancement Grants for Stem Cell Research.

Date: February 1, 2012.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Melissa E Nagelin, Ph.D., Scientific Review Officer, Office of Scentific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Rm. 7202, Bethesda, MD 20892, (301) 435–0297, *nagelinmh2@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 6, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–476 Filed 1–11–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; GEMSSTAR.

Date: January 27, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at Chevy Chase Pavilion, 4300 Military Road Northwest, Washington, DC 20015.

Contact Person: Rebecca J. Ferrell, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building, Rm. 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 402–7703, *ferrellrj@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–462 Filed 1–11–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Macromolecular Structure and Function A Study Section, February 2, 2012, 8 a.m. to February 2, 2012, 7 p.m., George Washington University Inn, 824 New Hampshire Avenue NW., Washington, DC 20037 which was published in the **Federal Register** on January 4, 2012, 77 FR 296.

The meeting will be held February 2, 2012, from 9 a.m. to 6 p.m. at The Westin Georgetown, 2350 M Street NW., Washington, DC 20037. The meeting is closed to the public.

Dated: January 5, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–461 Filed 1–11–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Statement of Organization, Functions, and Delegations of Authority; Correction

Correction

In the **Federal Register** of January 6, 2012 (77 FR 797), the Department of Health and Human Services published a notice titled National Institutes of Health Statement of Organization, Functions, and Delegations of Authority. On page 797, in the first column, first paragraph, correct the National Center for Advancing Translational Science (NCATS) to read: National Center for Advancing Translational Sciences (NCATS).

Dated: January 9, 2012.

Jerry Moore,

NIH Federal Register Liaison Officer, National Institutes of Health.

[FR Doc. 2012–470 Filed 1–11–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2011–0036]

Homeland Security Science and Technology Advisory Committee (HSSTAC)

AGENCY: Department of Homeland Security Science and Technology Directorate (DHS S&T), Department of Homeland Security.

ACTION: Committee management; request for applicants for appointment to Homeland Security Science and Technology Advisory Committee (HSSTAC).

SUMMARY: The DHS Science and Technology Directorate is inviting applications from individuals who are interested in serving on the Homeland Security Science and Technology Advisory Committee (HSSTAC). The HSSTAC gives advice and recommendations to the Under Secretary of DHS S&T.

DATES: Applications for membership should reach DHS S&T as described below on or before January 30, 2012.

ADDRESSES: Applicants should send a biography or resume and CV (if available) in one of three ways:

- *Email: Mary.Hanson@dhs.gov.*
- *Fax:* (202) 254–5823.
- *Mail:* Mary Hanson, HSSTAC Executive Director, Science and Technology Directorate, Department of Homeland Security, 245 Murray Lane, Bldg. 410, Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: Mary Hanson, HSSTAC Executive Director, Science and Technology Directorate, Department of Homeland Security, 245 Murray Lane, Bldg. 410, Washington, DC 20528, (202) 254–5866(O), (202) 254–5823 (F), *mary.hanson@dhs.gov.*

SUPPLEMENTARY INFORMATION: The HSSTAC is an advisory committee established in accordance with the provisions of the Federal Advisory Committee Act (FACA) 5 U.S.C. (Pub. L. 92–463). The committee addresses areas of interest and importance to the Under Secretary for Science and Technology, such as new developments in systems engineering, cyber-security, knowledge management and how best to leverage related technologies funded by other federal agencies and by the private sector. The committee also advises the Under Secretary on policies, management processes, and organizational constructs as needed. Upon request, the committee provides scientifically and technically based advice to the Homeland Security Advisory Council. A limited number of positions is currently available. The strongest need is in the areas of explosives detection and biological defense research and development.

Committee members serve at the pleasure of the Secretary of Homeland Security. Members will be selected based on their expertise, knowledge, and contribution to a diverse range of science and technology topic areas (including chemical, biological, and cybersecurity threats, the human factors embedded in those threats and response to them, first responder technology capabilities and needs, and the latest thinking in systems engineering), and their depth of experience in applying these areas of science and technology to real-world problems and transitioning innovative products into use. Members shall serve terms of office of two years. Meetings will be held approximately quarterly. Travel expenses may be reimbursed.

Members of HSSTAC will be appointed and serve as Special Government Employees (SGE) as defined in section 202(a) of title 18 United States Code. As candidates for appointment as SGEs, applicants are required to complete Confidential Financial Disclosure Reports (OGE Form 450). DHS may not release the reports or the information in them to the public except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a). Applicants can obtain the OGE Form 450 at the Web site of the Office of Government Ethics (*www.oge.gov*), or by contacting the individual listed above. Applications which are not accompanied by a completed OGE Form 450 will not be considered. Federally registered lobbyists may not serve on federal advisory committees.

In support of the policy of the Department of Homeland Security on gender and ethnic diversity, qualified women and minorities are encouraged to apply for membership.

Dated: December 21, 2011.

Tara O'Toole,

Under Secretary for Science and Technology.

[FR Doc. 2012–413 Filed 1–11–12; 8:45 am]

BILLING CODE 9110–9f–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2011–1014]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding Information Collection Requests (ICRs), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collections of information: 1625–0028, Course Approval and Records for Merchant Marine Training Schools and 1625–0069, Ballast Water Management for Vessels with Ballast Tanks Entering U.S. Waters. Our ICRs describe the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before February 13, 2012.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2011–1014] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) and/or to OIRA. To avoid duplicate submissions, please use only one of the following means:

(1) *Online:* (a) To Coast Guard docket at *http://www.regulations.gov.* (b) To OIRA by email via: *OIRA-submission@omb.eop.gov* .

(2) *Mail:* (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. (b) To OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Hand Delivery:* To DMF address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

(4) *Fax:* (a) To DMF, (202) 493–2251. (b) To OIRA at (202) 395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material

received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–611), Attn.: Paperwork Reduction Act Manager, U.S. Coast Guard, 2100 2nd St. SW., Stop 7101, Washington, DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Ms. Kenlinishia Tyler, Office of Information Management, telephone (202) 475–3652 or fax (202) 475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, (202) 366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICRs referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2011–1014], and must be received by February 13, 2012. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2011–1014], indicate the specific section of the document to which each comment applies, providing a reason for each comment. If you submit a comment online via www.regulations.gov, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**, but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2011–1014'' in the ''Keyword'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2011–1014'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Numbers: 1625–0028 and 1625–0069.

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (76 FR 68772, November 7, 2011) required by 44 U.S.C. 3506(c)(2). That Notice elicited one comment. The commenter asked the Coast Guard to consider revising the submission format to reflect the content, a subject heading that does the same and condense the redundant verbiage.

Much of the language in these Information Collection Requests is mandated by statute and regulations of the Office of Management and Budget. That language must remain in the Notices. The Coast Guard acknowledges that it goes to great lengths to inform the public of the various means of submission of comments to the docket and how these comments can be viewed in the public docket. We also feel that it is desirable to inform potential submitters of the Privacy Act ramifications of these comments. The Coast Guard will consider the content of this comment in future revisions to our ICRs to OMB.

Information Collection Request

1. *Title:* Course Approval and Records for Merchant Marine Training Schools.

OMB Control Number: 1625–0028.

Type of Request: Extension of a currently approved collection.

Respondents: Merchant marine training schools.

Abstract: The information is needed to ensure that merchant marine training schools meet minimal statutory requirements. The information is used to approve the curriculum, facility and faculty for these schools.

Forms: None.

Burden Estimate: The estimated burden remains 97,260 hours a year.

2. *Title:* Ballast Water Management for Vessels with Ballast Tanks Entering U.S. Waters.

OMB Control Number: 1625–0069.

Type of Request: Extension of a currently approved collection.

Respondents: Owners and operators of certain vessels.

Abstract: This collection requires the master of a vessel to provide information that details the vessel operator's ballast water management efforts. *Forms:* CG–5662.

Burden Estimate: The estimated burden remains 60,727 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: December 23, 2011.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2012–400 Filed 1–11–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2012–0011]

Merchant Marine Personnel Advisory Committee: Intercessional Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee Working Group Meeting.

SUMMARY: The Merchant Marine Personnel Advisory Committee (MERPAC) will conduct an intercessional meeting to facilitate working group discussion of Task Statement 76, entitled ''Review of Performance Measures (Assessment Criteria),'' and Task Statement 77, entitled ''Development of Performance Measures (Assessment Criteria).'' This meeting will be open to the public.

DATES: A MERPAC working group will meet on January 31, 2012, from 8 a.m. until 5 p.m., and on February 1, 2012, from 8 a.m. until 4 p.m. Please note that the meeting may adjourn early if all business is finished. Written comments to be distributed to working group members and placed on MERPAC's Web site are due by January 20, 2012.

ADDRESSES: The working group will meet at the STAR Center, 2 West Dixie Highway, Dania Beach, FL 33004–4312. For further information about the STAR Center hotel facilities or services for individuals with disabilities or to request special assistance, contact Mr. Graeme Holman at (954) 920–3222.

To facilitate public participation, we are inviting public comment on the issues to be considered by the work group, which are listed in the ''Agenda'' section below. Written comments must be identified by Docket No. USCG–2012–0011 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments (preferred method to avoid delays in processing).
- *Fax:* (202) 372–1918.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov.*

This notice may be viewed in our online docket, USCG–2012–0011, at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Rogers Henderson, Alternate Designated Federal Officer of MERPAC, telephone (202) 372–1408. If you have any questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–463).

MERPAC is an advisory committee authorized under section 871 of the Homeland Security Act of 2002, Title 6, United States Code, section 451, and chartered under the provisions of the FACA. The Committee will act solely in an advisory capacity to the Secretary of the Department of Homeland Security (DHS) through the Commandant of the Coast Guard and the Director of Commercial Regulations and Standards on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

Agenda

Day 1

The agenda for the January 31, 2012, working group meeting is as follows:

(1) Review existing performance measures and develop new performance measures which can be used to assess mariner competencies listed in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978 as amended;

(2) Public comment period;

(3) Discuss and prepare proposed recommendations for the full committee to consider with regards to Task Statement 76, concerning the review of existing performance measures which can be used to assess mariner competencies listed in the STCW, and Task Statement 77, concerning the development of new performance measures which can be used to assess mariner competencies in the STCW (these task statements are included as supplemental material to the docket); and

(4) Adjournment of meeting.

Day 2

The agenda for the February 1, 2012, working group meeting is as follows:

(1) Continue discussion on proposed recommendations;

(2) Public comment period;

(3) Discuss and prepare final recommendations for the full committee to consider with regards to Task Statement 76, concerning the review of existing performance measures which can be used to assess mariner competencies listed in the STCW, and Task Statement 77, concerning the development of new performance measures which can be used to assess mariner competencies in the STCW (these task statements are included as supplemental material to the docket); and

(4) Adjournment of meeting.

Procedural: A copy of all meeting documentation is available at the *https://www.fido.gov* Web site or by contacting Rogers Henderson. Once you have accessed the MERPAC Committee page, click on the meetings tab and then the ''View'' button for the meeting dated January 31–February 1, 2012 to access the information for this meeting.

Minutes will be available 90 days after this meeting. Both minutes and documents related to this meeting can also be found at an alternative site using the following Web address: *https://homeport.uscg.mil* and use these key strokes: Missions; Port and Waterways Safety; Advisory Committees; MERPAC; and then use the event key.

A public oral comment period will be held during the working group meeting. Speakers are requested to limit their comments to 3 minutes. Please note that the public oral comment period may end before the prescribed ending time indicated following the last call for comments. Contact Rogers Henderson as indicated above to register as a speaker.

Dated: January 6, 2012.

F.J. Sturm,

Deputy Director of Commercial Regulations and Standards.

[FR Doc. 2012–399 Filed 1–11–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0041; OMB No. 1660–0070]

Agency Information Collection Activities: Proposed Collection; Comment Request, National Fire Department Census

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the use of a form to collect data for the development and continuation of the National Fire Department Census.

DATES: Comments must be submitted on or before March 12, 2012.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2011–0041. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Regulatory Affairs Division, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *Email.* Submit comments to *FEMA-POLICY@dhs.gov.* Include Docket ID FEMA–2011–0041 in the subject line.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Gayle Kelch, Statistician, United States Fire Administration, National Fire Data Center, (301) 447–1154 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: Public Law 93–498 provides for the gathering and analyzing of data as deemed useful and applicable for fire departments. The U.S. Fire Administration (USFA) receives many requests from fire service organizations and the general public for information related to fire departments, including total number of departments, number of stations per department, population protected, and number of firefighters. The USFA also has a need for this information to guide programmatic decisions, and produce mailing lists for USFA publications. Recommendations for the creation of the fire department census database came out of a Blue Ribbon Panel's review of the USFA. The report included a review of the structure, mission, and funding of the USFA, future policies, programmatic needs, course development and delivery, and the role of the USFA to reflect changes in the fire service. As a result of those recommendations, the USFA is working to identify all fire departments in the United States to develop a database that will include information related to demographics, capabilities, and activities of fire departments Nationwide.

In the first year of this effort, information was collected from 16,000 fire departments. Since the first year of the collection, an additional 10,500 departments have registered with the census for a total of 26,500 fire departments. This leaves an estimated 3,500 departments still to respond. Additionally, about 5,300 current census registered departments are contacted by USFA each year and are asked to provide updates to any previously submitted information.

Collection of Information

Title: National Fire Department Census.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0070.

Form Titles and Numbers: FEMA Form 070–0–0–1, National Fire Department Census.

Abstract: This collection seeks to identify fire departments in the United States to compile and update a database related to their demographics, capabilities, and activities. The database is used to guide programmatic decisions and provide information to the public and the fire service.

Affected Public: State, Local, or Tribal Government.

Estimated Total Annual Burden Hours: 2,342 hours.

Type of respondent	Form name/Form number	Number of respondents	Number of responses per respondent	Total number of responses	Avg. burden per response (in hours)	Total annual burden (in hours)
State, Local, or Tribal (career).	National Fire Department Census/ FEMA Form 070–0–0–1.	490	1	490	.4167 hours (25 minutes) ...	204

Type of respondent	Form name/Form number	Number of respondents	Number of responses per respondent	Total number of responses	Avg. burden per response (in hours)	Total annual burden (in hours)
State, Local, or Tribal (volunteer).	National Fire Department Census/ FEMA Form 070–0–0–1.	3,010	1	3,010	.4167 hours (25 minutes) ...	1,254
State, Local, or Tribal (career).	National Fire Department Census/ FEMA Form 070–0–0–1 (update).	742	1	742	.1667 hours (10 minutes) ...	124
State, Local, or Tribal (volunteer).	National Fire Department Census/ FEMA Form 070–0–0–1 (update).	4,558	1	4,558	.1667 hours (10 minutes) ...	760
Total	.....	8,800	.....	8,800	.....	2,342

Estimated Cost: The estimated annual cost to respondents for the hour burden is $10,539. The estimated annual cost to respondents operations and maintenance costs for technical services is $0. There are no annual start-up or capital costs. The cost to the Federal government is $85,770.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) Evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

John G. Jenkins, Jr.,

Acting Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2012–484 Filed 1–11–12; 8:45 am]

BILLING CODE 9111–45–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0027; OMB No. 1660–0107]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Public Assistance Customer Satisfaction Survey

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before February 13, 2012.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: Public Assistance Customer Satisfaction Survey.

Type of information collection: Revision of a currently approved information collection.

OMB Number: 1660–0107.

Form Titles and Numbers: FEMA Form 519–0–1 T, Public Assistance Customer Satisfaction Survey (Telephone); FEMA Form 519–0–1 INT, Public Assistance Customer Satisfaction Survey (Web); FEMA Form 519–0–1, Public Assistance Customer Satisfaction Survey (Fill-able).

Abstract: This collection of information enables the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the Agency's programs. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Affected Public: Not-for-profit institutions, State, Local, and Tribal Governments.

Estimated Number of Respondents: 10,740.

Frequency of Response: Once.

Estimated Average Hour Burden per Respondent: .34 burden hours.

Estimated Total Annual Burden Hours: 3,695 burden hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $131,394.76. There are no annual costs to respondents operations and maintenance costs for technical services. There are no annual start-up or capital costs. The total annual non-labor cost is $7,344. The cost to the Federal government is $828,407.59.

John G. Jenkins, Jr.,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2012–483 Filed 1–11–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Jade Act

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651–0133.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the JADE Act. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before March 12, 2012, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177, at (202) 325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: JADE Act.

OMB Number: 1651–0133.

Form Number: None.

Abstract: The Tom Lantos Block Burmese JADE Act of 2008 (JADE Act) prohibits the importation of ''Burmese covered articles'' (jadeite, rubies, and articles of jewelry containing jadeite or rubies mined or extracted from Burma), and sets forth conditions for the importation of ''non-Burmese covered articles'' (jadeite, rubies, and articles of jewelry containing jadeite or rubies mined or extracted from a country other than Burma).

In order to implement the provisions of this Act, CBP requires that the importer enter the specific HTSUS subheading for jadeite, rubies or articles containing jadeite or rubies on the CBP Form 7501, *Entry Summary,* which serves as the importer's certification. In addition, at the time of entry, the importer must have in his or her possession a certification from the exporter certifying that the conditions of the JADE Act have been met. Importers must keep this certification in their records and make it available to CBP upon request.

This information collection is authorized by Public Law 110–286 and provided for by 19 CFR 12.151. Guidance regarding how to comply with the JADE Act is on the CBP Web site at: *http://www.cbp.gov/linkhandler/cgov/trade/trade_programs/entry_summary/laws/public_law/jade_act.ctt/jade_act.pdf*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 22,197.

Estimated Number of Annual Responses per Respondent: 20.

Estimated Total Annual Responses: 443,940.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 74,005.

Dated: January 9, 2012.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2012–480 Filed 1–11–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L63100000–HD0000: HAG12–0068]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management Oregon/Washington State Office, Portland, Oregon, 30 days from the date of this publication.

WILLAMETTE MERIDIAN

Oregon

T. 10 S., R. 1 East, accepted December 8, 2011
T. 14 S., R. 1 W., accepted December 27, 2011
T. 6 S., R. 7 W., accepted December 27, 2011
T. 37 S., R. 1 E., accepted December 27, 2011
T. 38 S., R. 4 E., accepted December 27, 2011
T. 25 S., R. 2 W., accepted December 27, 2011
T. 21 S., R. 4 W., accepted December 27, 2011

Washington

T. 17 N., R. 10 E., accepted December 27, 2011
T. 29 N., R. 36 E., accepted December 27, 2011

ADDRESSES: A copy of the plats may be obtained from the Land Office at the Bureau of Land Management, Oregon/Washington State Office, 333 SW. 1st Avenue, Portland, Oregon 97204, upon

required payment. A person or party who wishes to protest against a survey must file a notice that they wish to protest (at the above address) with the Oregon/Washington State Director, Bureau of Land Management, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6124, Branch of Geographic Sciences, Bureau of Land Management, 333 SW. 1st Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Timothy J. Moore,

Acting Chief, Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2012–477 Filed 1–11–12; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMF00000 L13110000.XH0000]

Notice of Public Meeting, Farmington District Resource Advisory Council Meeting, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Farmington District Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting date is February 8, 2012, at the BLM Farmington District Office, 1235 La Plata Highway, Farmington, NM 87401, from 10 a.m.–4:30 p.m.

The public may send written comments to the RAC at the above address.

FOR FURTHER INFORMATION CONTACT: Bill Papich, BLM Farmington District Office, 1235 La Plata Highway, Farmington, NM 87401, (505) 599–6324. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–(800) 877–8229 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 10-member RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in New Mexico.

Planned agenda items include discussion of disposal of public land through the Recreation and Public Purposes Act, unauthorized occupation of BLM land in Indian Country, Visual Resource Management in the Farmington Field Office oil and gas field, Taos Field Office planning for transportation, recreation and Areas of Critical Environmental Concern, and the Taos Field Office update on its Resource Management Plan.

A half-hour public comment period during which the public may address the RAC is scheduled to begin at 2:30 p.m. on February 8, 2012. All RAC meetings are open to the public. Depending on the number of individuals wishing to comment and time available, the time for individual oral comments may be limited.

Dave Evans,

District Manager, Farmington.

[FR Doc. 2012–431 Filed 1–11–12; 8:45 am]

BILLING CODE 4310–VB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[8896–SZM]

Notice of January 23, 2012, Meeting for Kalaupapa Federal Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: This notice sets the date of January 23, 2012, meeting of the Kalaupapa Federal Advisory Commission.

DATES: The public meeting of the Kalaupapa Federal Advisory Commission will be held on Monday, January 23, 2012, at 9 a.m. (Hawaii Standard Time).

Location: The meeting will be held at McVeigh Social Hall, Kalaupapa National Historical Park, Kalaupapa, Hawaii 96742.

Agenda

The January 23, 2012, Commission meeting will consist of the following:

1. Superintendent's Report
2. General Management Plan (GMP) Updates
3. Kalaupapa Subsidy Air Service
4. Kalaupapa Post Office Closure
5. Commission's Recommendation on the Memorial
   (a) Ownership
   (b) Long-Term Management
6. Public Comments

FOR FURTHER INFORMATION CONTACT: Further information concerning this meeting may be obtained from the Superintendent, Kalaupapa National Historical Park, P.O. Box 2222, Kalaupapa, Hawaii 96742, telephone (808) 567–6802 x1100.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 14, 2011.

Stephen Prokop,

Superintendent, Kalaupapa National Historical Park.

[FR Doc. 2012–281 Filed 1–11–12; 8:45 am]

BILLING CODE 4132–GJ–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Notice is hereby given that on December 14, 2011, a proposed Consent Decree in *United States of America* v. *International Hospitality Associates, S. en C. por A. (SE.), et al.,* Civil Action No. 3:11–cv–02200, was lodged with the United States District Court for the District of Puerto Rico.

The proposed Consent Decree will settle claims of the United States (on behalf of the Environmental Protection Agency) against Settling Defendants, International Hospitality Associates S. en C. Por A. (SE.) and International Hospitality Associates, Inc., for violations of Sections 301, 308, and 402(p) of the Federal Water Pollution Control Act, as amended (the ''Clean Water Act'' or the ''Act''), 33 U.S.C. 1311, 1318 & 1342(p), and implementing regulations. *See* 40 C.F.R. 122.2. Alleged violations against Settling Defendants include engaging in construction activities without obtaining coverage under the General Permit for Storm Water Discharges from Construction Activities (''CGP''), discharging pollutants into the waters of the United States without a permit, and failing to comply with certain provisions of the CGP. Pursuant to the proposed Consent Decree, the Defendants will pay $474,240 in civil penalties and perform a supplemental environmental project valued at $32,000.

The Department of Justice will receive for a period of 30 days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States of America* v. *International Hospitality Associates, S. en C. por A. (SE.) and International Hotel Associates, Inc.,* Civil Action No. 3:11–cv–02200, D.J. Ref. 90–5–1–1–09303.

Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States of America* v. *International Hospitality Associates, S. en C. por A. (SE.) and International Hotel Associates, Inc.,* Civil Action No. 3:11–cv–02200, D.J. Ref. 90–5–1–1–09303.

During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site to: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or emailing a request to ''Consent Decree Copy'' (*EESCDCopy.ENRD@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $10.25 (25 cents per page reproduction costs of the Consent Decree) payable to the U.S. Treasury or, if by email or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–407 Filed 1–11–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Trade Adjustment Assistance Community College and Career Training Grant Program Reporting Requirements

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) proposal entitled ''Trade Adjustment Assistance Community College and Career Training Grant Program Reporting Requirements'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before February 13, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at (202) 693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: (202) 395–6929/Fax: (202) 395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at (202) 693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR is for approval to implement new reporting requirements for the Trade Adjustment Assistance Community College and Career Training (TAACCCT) grant program. The ETA will require grantees to submit Quarterly Progress Reports with a narrative summary of at least two progress measures and at least two implementation measures identified by the grantee in their project work plan. Every fourth quarter, grantees will be required to submit an Annual Performance Report with standardized outcome measures that will include aggregate data for program participants and a comparison cohort of participants for the following seven outcome measures: Entered employment rate, employment retention rate, average earnings, attainment of credits toward degree(s), attainment of certificate(s) (less than one year), attainment of certificate(s) (more than one year), and graduation rate for degree programs. These reports will help the ETA gauge the effects of the TAACCCT grants, identify grantees that could serve as useful models, and appropriately target technical assistance.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on June 1, 2011 (76 FR 31639).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201110–1205–003. The OMB is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employment and Training Administration.

Title of Collection: Trade Adjustment Assistance Community College and Career Training Grant Program Reporting Requirements.

OMB ICR Reference Number: 201110–1205–003.

Affected Public: Individuals or Households and Private Sector—Not-For-Profit Institutions.

Total Estimated Number of Respondents: 168,247.

Total Estimated Number of Responses: 336,644.

Total Estimated Annual Burden Hours: 23,620.

Total Estimated Annual Other Costs Burden: $0.

Dated: January 5, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–449 Filed 1–11–12; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *December 19, 2011 through December 30, 2011.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the Following Must Be Satisfied

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) All of the Following Must Be Satisfied

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
80,405	Schweizer Aircraft Corporation, Sikorsky Aircraft, dba Sikorsky Military Completion, Adecco, Aerotek, etc.	Horseheads, NY	August 30, 2010.
80,413	Flextronics, Flextronics International, Global Services Division, Aerotek.	Louisville, KY	December 9, 2011.
80,425	Portage Mold and Die Co	Ravenna, OH	September 8, 2010.
80,483	American Apparel, Inc	Garden Grove, CA	September 29, 2010.
80,493	Molded Fiber Glass Companies Texas, Class 8 Truck Roof Division.	Gainesville, TX	October 4, 2010.
81,004	Pace American Enterprises, Inc	McGregor, TX	February 13, 2010.
81,004A	Pace American Enterprises, Inc	Middlebury, IN	February 13, 2010.
81,004B	Pace American Enterprises, Inc	Fitzgerald, GA	February 13, 2010.
81,004C	Pace American Enterprises, Inc	Lebanon, OR	February 13, 2010.
81,004D	Pace American Enterprises, Inc	Hurricane, UT	February 13, 2010.
81,009	Birds Eye Foods, LLC, Fulton, NY Plant, Pinnacle Foods Group LLC, W L Staff Svces., Inc.	Fulton, NY	February 13, 2010.
81,010	Velsicol Chemical LLC	Memphis, TN	February 13, 2010.
81,050	Fenton Gift Shops, Inc	Williamstown, WV	February 13, 2010.
81,050A	Fenton Gift Shops, Inc	Sutton, WV	February 13, 2010.
81,087	Burlington Basket Company	West Burlington, IA	February 13, 2010.
81,115	The Rupp Forge Company	Cleveland, OH	February 13, 2010.
81,131	Topsail Coast Enterprises, Inc	Surf City, NC	February 13, 2010.
81,136	Michelin North America, Inc., BF Goodrich Tire Manufacturing Division.	Opelika, AL	June 26, 2010.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
80,409	Bosch Security Systems, Inc., Robert Bosch N.A	Lancaster, PA	February 13, 2010.
80,523	Siemens Water Technologies, Spherion Corporation	Vineland, NJ	October 14, 2010.
81,007	A. Schulman, On-Site Leased Workers From Manpower	Nashville, TN	February 13, 2010.
81,036	Fair-Rite Products Corp	Flat Rock, IL	February 13, 2010.
81,036A	Fair-Rite Products Corp	Wallkill, NY	February 13, 2010.
81,037	Emerson Power Transmission, On-Site Leased Workers from Nesco Services.	Maysville, KY	February 13, 2010.
81,037A	Emerson Power Transmission, On-Site Leased Workers from Nesco Services.	Maysville, KY	February 13, 2010.
81,043	Outcomes Health Information Solutions, LLC	Albuquerque, NM	February 13, 2010.
81,052	Mohawk Fine Paper, Beckett Mill Division, Prestige Technical Services.	Hamilton, OH	February 13, 2010.
81,074	Radia Inc., P.S., Business Services Division	Everett, WA	February 13, 2010.
81,100	Checkpoint Caribbean, Ltd., Checkpoint Systems, Personnel Recruiting Services.	Ponce, PR	February 13, 2010.
81,107	New United Motor Manufacturing, Inc. (NUMMI), Joint Venture of General Motors Corporation & Toyota Motor Corporation.	Freemont, CA	November 20, 2011.
81,110	Meggitt Aircraft Braking Systems Corporation, Meggitt PLC	Akron, OH	February 13, 2010.
81,110A	Kelly Services, Working On-Site Meggitt Aircraft Braking Systems Corporation.	Akron, OH	February 13, 2010.
81,119	Federal-Mogul, Wiper Products Division	Michigan City, IN	January 23, 2012.
81,119A	Express Employment Working On-Site at Federal-Mogul	Michigan City, IN	February 13, 2010.
81,142	Jeunique International, Inc	Santa Fe Springs, CA	February 13, 2010.

TA–W No.	Subject firm	Location	Impact date
81,160	Kardex Production USA, Inc., Kardex AG	Lewistown, PA	February 13, 2010.
81,163	Smith Jones, Inc., D.B.A. Midwest Manufacturing Company	Stanberry, MO	February 13, 2011.
81,164	BAE Systems Controls, Inc., Electronic Systems Division	Irving, TX	December 8, 2011.
81,165	Cengage Learning, Manufacturing Buyers' Department, Adecco, Ajilon and Brooksource.	Mason, OH	February 13, 2010.
81,165A	Cengage Learning, Manufacturing Buyers' Department	Belmont, CA	February 13, 2010.
81,169	Ikano Communications, Inc. DBA DSL Extreme, Customer Service Department.	Chatsworth, CA	February 13, 2010.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,016	Smart Papers Holdings LLC, Plainfield Paper Holdings LLC	Hamilton, OH	February 13, 2010.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
80,529	Wheatland Tube Company	Sharon, PA.	

The investigation revealed that the criteria under paragraphs (a)(2)(A)(i) (decline in sales or production, or both) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
80,421	Geiger International, A Subsidiary of Herman Miller	Lake Mills, WI.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
80,414	Equistar Chemicals, LP, A Subsidiary of Lyondell Chemical Co	Cincinnati, OH.	
80,446	GoldToeMoretz, LLC, A Subsidiary of GTB Holding LLC	Newton, NC.	
80,493A	Molded Fiber Glass Companies Texas, Wind Turbine Blade Division.	Gainesville, TX.	
80,512	Pilgrim's Pride Corporation	Dallas, TX	

I hereby certify that the aforementioned determinations were issued during the period of *December 19, 2011 through December 30, 2011.* These determinations are available on the Department's Web site at *tradeact/taa/taa search form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll-free at (888) 365–6822.

Dated: January 5, 2012.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–436 Filed 1–11–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the

Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 23, 2012.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 23, 2012.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 5th day of January 2012.

Michael Jaffe,

Michael Jaffe, Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[74 TAA petitions instituted between 12/5/11 and 12/30/11]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
81133	Talecris Biotherapeutics Inc. (Workers)	Durham, NC	12/05/11	11/28/11
81134	Bosley Medical (State/One-Stop)	Beverly Hills, CA	12/05/11	12/02/11
81135	Peninsula Daily News (Workers)	Port Angeles, WA	12/05/11	11/29/11
81136	Michelin North America, Inc. (Union)	Opelika, AL	12/05/11	12/02/11
81137	Wellpoint (State/One-Stop)	Andover, MA	12/05/11	12/02/11
81138	Keystone Automotive Operations, Inc. (Company)	Exeter, PA	12/06/11	12/05/11
81139	McClatchy Newspapers, Inc. DBA The Sacramento Bee (State).	Sacramento, CA	12/06/11	12/02/11
81140	Bureau Veritas Consumer Products Services (Workers)	Buffalo, NY	12/07/11	11/27/11
81141	Sewteam, Inc. (Company)	Corsicana, TX	12/07/11	11/28/11
81142	Jeunique International, Inc. (Company)	Santa Fe Springs, CA	12/08/11	12/01/11
81143	Armstrong Hardwood Flooring Company (Union)	Beverly, WV	12/08/11	12/07/11
81144	Regal Beloit—Liberty, SC Facility (Company)	Liberty, SC	12/08/11	12/08/11
81145	Sunoco Inc. Marcus Hook Refinery (Union)	Marcus Hook, PA	12/08/11	12/07/11
81146	LA Darling, Piggott Plant (Worker)	Piggott, AR	12/08/11	12/07/11
81147	Schneider Electric North America (Company)	Lexington, KY	12/08/11	11/30/11
81148	Wells Fargo (Company)	San Francisco, CA	12/08/11	12/06/11
81149	CQMS Razer (State/One-Stop)	Mansfield, LA	12/08/11	12/06/11
81150	Novozymes, Inc. (State/One-Stop)	Davis, CA	12/08/11	12/05/11
81151	Ahlstrom Glass Nonwovens LLC (Company)	Bishopville, SC	12/09/11	12/08/11
81152	Bristol Compressors International, Inc. (Company)	Bristol, VA	12/09/11	12/08/11
81153	Schneider Electric USA, Inc., a subsidiary of Schneider Electric Industries (State/One-Stop).	North Andover, MA	12/09/11	12/08/11
81154	Automotive Components Holdings (Union)	Bellevue, OH	12/12/11	12/02/11
81155	The Newark Group (Union)	York, PA	12/12/11	12/11/11
81156	Schott/Gemetron (Workers)	Vincennes, IN	12/12/11	12/07/11
81157	AAA Northern California, Nevada & Utah Insurance Exchange (State/One-Stop).	Fairfield, CA	12/12/11	12/08/11
81158	Hartford Financial Services Group, Inc. (Company)	Hartford, CT	12/12/11	12/07/11
81159	Transcom (State/One-Stop)	Lafayette, LA	12/13/11	12/12/11
81160	Kardex Production USA, Inc. (Company)	Lewistown, PA	12/13/11	12/12/11
81161	EMLINQ LLC (Company)	Simi Valley, CA	12/13/11	12/12/11
81162	Kennametal Greenfield Tap Plant (Union)	Greenfield, MA	12/13/11	12/09/11
81163	Smith Jones, Inc. (Company)	Stanberry, MO	12/14/11	12/08/11
81164	BAE Systems Controls, Inc. (Company)	Irving, TX	12/14/11	12/12/11
81165A	Cengage Learning (Company)	Belmont, CA	12/14/11	12/14/11
81165	Cengage Learning (Company)	Mason, OH	12/14/11	12/14/11
81166	AVX Corporation (Union)	Conway, SC	12/14/11	12/06/11
81167	American Lighting Fixture Corp g. (Company)	Taunton, MA	12/14/11	12/12/11
81168	Lightspeed Technologies (Company)	Tualatin, OR	12/14/11	12/13/11
81169	Ikano Communications, Inc. DBA DSL Extreme (Company)	Chatsworth, CA	12/15/11	12/14/11
81170	Thomson Reuters (Workers)	Boston, MA	12/15/11	12/08/11
81171	The Seydel Companies (Company)	Pendergrass, GA	12/15/11	12/13/11
81172	Salem Harbor Station (State/One-Stop)	Salem, MA	12/16/11	12/15/11
81173	Reichhold (State/One-Stop)	Azusa, CA	12/16/11	12/15/11
81174	Charles Navasky & Co.,INC.—Don Mart Clothes, Inc.—Rocket Apparel, Inc.—Wal (Workers).	Philipsburg, PA	12/16/11	12/15/11
81175	Albany International (Company)	Menasha, WI	12/19/11	12/16/11
81176	Bombardier Transportation (Workers)	Pittsburgh, PA	12/19/11	12/16/11
81177	Heartland Bakery (State/One-Stop)	Du Quoin, IL	12/20/11	12/19/11
81178	Sunpower Corporation, incl. Richmond, CA Site; (Workers)	San Jose, CA	12/20/11	12/12/11
81179	Technicolor, Inc. (Union)	Glendale, CA	12/21/11	12/15/11
81180	Sagoma Technologies (State/One-Stop)	Biddeford, ME	12/21/11	12/14/11
81181	Bosch Security Systems, Inc. (State/One-Stop)	Morrilton, AR	12/21/11	12/20/11
81182	GFF Holding Company (Company)	Soperton, GA	12/21/11	12/13/11
81183	Avalon Laboratories, LLC (State)	Rancho Dominguez, CA	12/21/11	12/12/11
81184	C & M Wood Industries, Inc. (Workers)	Hesperia, CA	12/22/11	12/21/11
81185	CBean Transport (State/One-Stop)	Fort Smith, AR	12/22/11	12/21/11
81186	Liberty Denim, LLC. (Company)	Liberty, SC	12/22/11	12/21/11
81187	American Express, Billing and Payment Services (BPS) Division (Workers).	Weston, FL	12/22/11	12/21/11

APPENDIX—Continued

[74 TAA petitions instituted between 12/5/11 and 12/30/11]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
81188	Shreveport Ramp Services, LLC (Company)	Shreveport, LA	12/22/11	12/16/11
81189	Tecumseh Products Co. (Workers)	Ann Arbor, MI	12/22/11	12/19/11
81190	Graphic Packaging International (Workers)	Lawrenceburg, TN	12/22/11	12/10/11
81191	Bristol, Inc. dba Emerson Process Management—Remote Automation Solutions (Company).	Watertown, CT	12/22/11	12/21/11
81192	Ferre Hickory, LLC (Company)	Hickory, NC	12/22/11	12/21/11
81193	Segue Manufacturing Services, LLC (State/One-Stop)	Lowell, MA	12/23/11	12/23/11
81194	Security Metal Products (Company)	Clinton, OK	12/23/11	12/22/11
81195	Boston Scientific (State/One-Stop)	Doral, FL	12/23/11	12/22/11
81196	Microfibres, Inc. (Company)	Pawtucket, RI	12/27/11	12/27/11
81197	Hanes Dye & Finishing Co.—Butner Plant (Company)	Butner, NC	12/27/11	12/24/11
81198	Andersen Corporation (State)	Bayport, MN	12/28/11	12/27/11
81199	Wellpoint/Anthem BCBS of Virginia (Workers)	Roanoke, VA	12/28/11	12/27/11
81200	Wausau Paper (Company)	Brokaw, WI	12/28/11	12/20/11
81201	EuroLeather Inc. (Workers)	Newton, NC	12/30/11	12/28/11
81202	TE Connectivity Medical Division (State/One-Stop)	Wilsonville, OR	12/30/11	12/29/11
81203	American Institute of Physics (Company)	College Park, MD	12/30/11	12/21/11
81204	Cooper Tire (Union)	Findlay, OH	12/30/11	12/20/11
81205	Lakeshore Visiting Physicians (Workers)	Edmore, MI	12/30/11	12/30/11

[FR Doc. 2012–437 Filed 1–11–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

2002 Reopened—Previously Denied Determinations; Notice of Revised Denied Determinations on Reconsideration Under the Trade Adjustment Assistance Extension Act of 2011 Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) (Act) the Department of Labor (Department) herein presents summaries of revised determinations on reconsideration regarding eligibility to apply for Trade Adjustment Assistance for workers by case (TA–W–) number regarding negative determinations issued during the period of *February 13, 2011 through October 21, 2011.* Notices of negative determinations were published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271). As required by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), all petitions that were denied during this time period were automatically reconsidered. The reconsideration investigation revealed that the following workers groups have met the certification criteria under the provisions of TAAEA.

After careful review of the additional facts obtained, the following revised determinations on reconsideration have been issued.

TA–W–80,154; State Street Corporation, Irvine, CA: May 4, 2010.

TA–W–80,167; Sungard Business Systems, Birmingham, AL: May 9, 2010.

TA–W–80,200; Accentia Physicians Services, Lauderhill, FL: May 24, 2010.

TA–W–80,251; Volunteer Apparel, Luttrell, TN: June 23, 2010.

TA–W–80,288; Croscill Acquisition, Plant #8, Oxford, NC: June 14, 2010.

TA–W–80,334; RR Donnelley, Eldridge, IA: July 15, 2010.

I hereby certify that the aforementioned revised determinations on reconsideration were issued on *December 22, 2011 through December 29, 2011.* These determinations are available on the Department's Web site at *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll-free at (888) 365–6822.

Dated January 5, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–438 Filed 1–11–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

2002 Reopened—Previously Denied Determinations; Notice of Negative Determinations on Reconsideration Under the Trade Adjustment Assistance Extension Act of 2011 Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) (Act) the Department of Labor (Department) herein presents summaries of negative determinations on reconsideration regarding eligibility to apply for Trade Adjustment Assistance for workers by case (TA–W-) number regarding negative determinations issued during the period of *February 13, 2011 through October 21, 2011.* Notices of negative determinations were published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271). As required by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), all petitions that were denied during this time period were automatically reopened. The reconsideration investigation revealed that the following workers groups have not met the certification criteria under the provisions of TAAEA.

After careful review of the additional facts obtained, the following negative determinations on reconsideration have been issued.

TA–W–80,069; Hydro Aluminum North America, Ellenville, NY

TA–W–80,102; JPMorgan Chase & Co., Fort Worth, TX
TA–W–80,184; Merchants Bank of California, Carson, CA
TA–W–80,222; Saint-Gobain Abrasives, Watervliet, NY
TA–W–80,279; Paris Accessories, Yellville, AR
TA–W–80,305; General Advertising Products, Cincinnati, OH
TA–W–80,385; UBP Asset Management, LLC (''UBPAM''), New York, NY
TA–W–80,404; Golden Living, Fort Smith, AR
TA–W–80,474; Simonton Windows, McAlester, OK
TA–W–80,401; Newlife Academy of Information, East Liverpool, OH

I hereby certify that the aforementioned negative determinations on reconsideration were issued on *December 22, 2011 through December 30, 2011.* These determinations are available on the Department's Web site at *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll-free at (888) 365–6822.

Dated: January 5, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–439 Filed 1–11–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Request for Certification of Compliance—Rural Industrialization Loan and Grant Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration is issuing this notice to announce the receipt of a ''Certification of Non-Relocation and Market and Capacity Information Report'' (Form 4279–2) for the following:

Applicant/Location: Northern Beef Packers Limited Partners.

Principal Product/Purpose: The loan, guarantee, or grant application is to finance building construction and to purchase equipment for a beef production and packaging facility, which will be located in Aberdeen, South Dakota. The NAICS industry code for this enterprise is: 311611 (beef produced in slaughtering plants).

DATES: All interested parties may submit comments in writing no later than January 26, 2012.

Copies of adverse comments received will be forwarded to the applicant noted above.

ADDRESSES: Address all comments concerning this notice to Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room S–4231, Washington, DC 20210; or email *Dais.Anthony@dol.gov;* or transmit via fax (202) 693–3015 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais, at telephone number (202) 693–2784 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 188 of the Consolidated Farm and Rural Development Act of 1972, as established under 29 CFR part 75, authorizes the United States Department of Agriculture to make or guarantee loans or grants to finance industrial and business activities in rural areas. The Secretary of Labor must review the application for financial assistance for the purpose of certifying to the Secretary of Agriculture that the assistance is not calculated, or likely, to result in: (a) A transfer of any employment or business activity from one area to another by the loan applicant's business operation; or, (b) An increase in the production of goods, materials, services, or facilities in an area where there is not sufficient demand to employ the efficient capacity of existing competitive enterprises unless the financial assistance will not have an adverse impact on existing competitive enterprises in the area. The Employment and Training Administration within the Department of Labor is responsible for the review and certification process. Comments should address the two bases for certification and, if possible, provide data to assist in the analysis of these issues.

Signed: at Washington, DC this 29th of December, 2011.

Jane Oates,

Assistant Secretary for Employment and Training.

[FR Doc. 2012–448 Filed 1–11–12; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 12–001]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announce a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Friday, January 27, 2012, Time 11 a.m.–12:30 p.m.

ADDRESSES: NASA Headquarters, 300 E Street SW., Room 9H40, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Burch, Aerospace Safety Advisory Panel Administrative Officer, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–0550.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel will hold its First Quarterly Meeting for 2012. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The agenda will include: Updates on the Space Launch System (SLS), Multi-Purpose Crew Vehicle (MPCV), and Commercial Crew Program (CCP) as well as NASA's responses to ASAP recommendations.

The meeting will be open to the public up to the seating capacity of the room. Seating will be on a first-come basis. Photographs will only be permitted during the first 10 minutes of the meeting. During the first 30 minutes of the meeting, members of the public may make a 5-minute verbal presentation to the Panel on the subject of safety in NASA. To do so, please contact Ms. Susan Burch at *susan.burch@nasa.gov* or by telephone at (202) 358–0550 at least 48 hours in advance. Any member of the public is permitted to file a written statement with the Panel at the time of the meeting. Verbal presentations and written comments should be limited to the subject of safety in NASA. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before

receiving an access badge. Foreign nationals attending this meeting will be required to provide a copy of their passport, visa, or green card in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizenship can provide identifying information 3 working days in advance by contacting Susan Burch via email at *susan.burch@nasa.gov* or by telephone at (202) 358–0550. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–401 Filed 1–11–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Notice of Opportunity for Public Comment on the National Science Board Data Policies Report

AGENCY: National Science Board (NSB), NSF.

ACTION: Request for public comments.

SUMMARY: The National Science Board seeks comments from the public on the report from the Committee on Strategy and Budget's Task Force on Data Policies, *Digital Research Data Sharing and Management.*

DATES: Send comments by email to Blane Dahl at the National Science Board Office at *bdahl@nsf.gov.* Comments are due by close of business Wednesday, January 18, 2012.

SUPPLEMENTARY INFORMATION: Recognizing that the proliferation of digital research data has significant policy implications, the National Science Board Committee on Strategy and Budget established the Task Force on Data Policies to lead a broad examination on how research data collected with NSF funding are shared and managed to ensure broad, timely, and long-term availability to the research community. The recommendations in the resulting Data Policies Report reflect the Board's firm commitment to ensuring broad, timely, and sustained access to digital research data; addressing the cost burdens associated with managing digital research data; and developing a qualified workforce in data-enabled science and engineering.

The full Report is available at *http://www.nsf.gov/nsb/news/news_summ.jsp?cntn_id=122702&org=NSB&from=news.* Comments should be germane to the subject matter of the Report.

FOR FURTHER INFORMATION CONTACT: For further information about this notice, please contact the National Science Board Office, telephone: (202) 292–7000.

Dated: January 6, 2012.

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2012–358 Filed 1–11–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Application for a License To Export High-Enriched Uranium

Pursuant to 10 CFR 110.70(b) ''Public Notice of Receipt of an Application,'' please take notice that the Nuclear Regulatory Commission (NRC) has received the following request for an export license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *http://www.nrc.gov/reading-rm.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within thirty days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E–Filing rule promulgated in August 2007, 72 FR 49139 (Aug. 28, 2007). Information about filing electronically is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* To ensure timely electronic filing, at least 5 (five) days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at *HEARINGDOCKET@NRC.GOV*, or by calling (301) 415–1677, to request a digital ID certificate and allow for the creation of an electronic docket.

In addition to a request for hearing or petition for leave to intervene, written comments, in accordance with 10 CFR 110.81, should be submitted within thirty (30) days after publication of this notice in the **Federal Register** to Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemaking and Adjudications

The information concerning this application for an export license follows.

NRC EXPORT LICENSE APPLICATION

[Description of Material]

Name of applicant Date of application Date received Application No. Docket No.	Material type	Total quantity	End use	Destination
Doe/NNSA—Y–12 National Security Complex. December 21, 2011 December 22, 2011 XSNM3708 11005974	High-Enriched Uranium (93.35%).	10.0 kilograms uranium (9.3 kilograms U–235).	To fabricate targets at CERCA AREVA Romans in France for ultimate use for production of medical isotopes at the Nuclear Research and Consultancy Group in the Netherlands.	The Netherlands.

For the Nuclear Regulatory Commission.

Dated this 6th day of January 2012 at Rockville, Maryland.

Scott W. Moore,

Deputy Director, Office of International Programs.

[FR Doc. 2012–440 Filed 1–11–12; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2012–5, CP2012–10 and CP2012–11; Order No. 1111]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently filed Postal Service request to add Global Plus 2C Contracts to the competitive product list. This notice addresses procedural steps associated with the filing.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION:

Introduction. The Commission hereby provides notice that the Postal Service has filed a request to add Global Plus 2C Contracts, consisting of two Global Plus 2C agreements, to the competitive products list.[1] The new product covers rates for a combination of Global Bulk Economy (GBE) and Global Direct (GD) for high-volume mailers or Postal Qualified Wholesalers. *Id.* Attachment A–3. The instant agreements are set to begin January 16, 2012 upon the expiration of customers' current customized (Global Plus 2B) agreements. *Id.* at 5.

Documentation. The Postal Service has filed the contracts, along with certain supporting documents, under seal. Attachment 1 to the Notice is an application for non-public treatment of this material. *See id.* Attachment 1 at 1 and n. 4. Attachments 2 though 4 consist of the pertinent Governors' Decisions; revised Mail Classification Schedule language; certifications and a statement required under Commission rules; and contracts.

Postal Service representations. The Postal Service asserts that its filing establishes that the new Global Plus 2C contracts are in compliance with the requirements of 39 U.S.C. 3633; fit within the proposed MCS language for Global Plus Contracts based on the controlling Governors' Decisions; and are functionally equivalent to each other.[2] It therefore requests that Global Plus 2C be added to the competitive product list; that the contracts included in this filing be included within the Global Plus 2C product; and that these contracts be considered the baseline agreements for future functionally equivalency analyses for the Global Plus 2C product. *Id.* at 9–10.

Initial Commission action. The Commission establishes three related dockets, designated as Docket Nos. MC2012–5, CP2012–10, and CP2012–11, to consider matters raised in the Notice. The Commission strongly encourages those interested in the Postal Service's proposal to review the filing in its entirety, including the proposed revisions to the MCS. Public portions of the Postal Service's filing can be accessed via the Commission's Web site, *www.prc.gov.* Commission rule 3007.40 (39 CFR 3007.40) addresses procedures for obtaining access to non-public information. Interested persons may submit comments on whether adding Global Plus 2C to the competitive product list is consistent with the policies of 39 U.S.C. 3632 or 3633 and 39 CFR part 3015. The date for filing comments and the designated Public Representative are identified in the ordering paragraphs.

It is ordered:

1. The Commission establishes Docket Nos. MC2012–5, CP2012–10, and CP2012–11 to consider matters raised by the Postal Service's Notice.

2. Comments by interested persons in these proceedings are due no later than January 11, 2012.

3. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

[1] Request of the United States Postal Service to Add Global Plus 2C to the Competitive Products List and Notice of Filing Two Functionally Equivalent Global Plus 2C Contracts Negotiated Service Agreements and Application for Non-Public Treatment of Materials Filed Under Seal, December 30, 2011 (Notice). *See also* Errata (January 5, 2012) presenting revised Mail Classification Schedule (MCS). The Notice was filed pursuant to 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and Order No. 112. The filing includes Global Plus 1C contracts, which are the subject of Docket Nos. MC2012–6, CP2012–10 and CP2012. *See* Notice, Attachment 1 at 1.

[2] Governors' Decision No. 08–10 authorizes Global Plus 2 contracts. Governors' Decision No. 11–6 authorizes Postal Service management to prepare any necessary product description, including Mail Classification Schedule text, and to present such description to the Commission.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–486 Filed 1–11–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–100; Order No. 1101]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Jonesville, Texas post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: January 23, 2012, 4:30 p.m., Eastern Time: Deadline for Petitioner's Form 61; February 13, 2012, 4:30 p.m., Eastern Time: Deadline for answering brief in support of the Postal Service. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received two petitions for review of the Postal Service's determination to close the Jonesville post office in Jonesville, Texas. The first petition for review, which included an application for suspension of the determination, was filed online on December 19, 2011 by Lelia Vaughn. The second petition for review received January 3, 2012, was filed by Martha L. Vaughn. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–100 to consider Petitioners' appeal. If Petitioners would like to further explain their position with supplemental information or facts, Petitioners may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than January 23, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012.'' [1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Categories of issues apparently raised. Petitioners contend that (1) the Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)); (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 39 U.S.C. 404(d)(2)(A)(iii)); (3) the Postal Service failed to adequately consider the economic savings resulting from the closure (*see* 39 U.S.C. 404(d)(2)(A)(iv)); (4) there are factual errors contained in the Final Determination; and (5) the Postal Service failed to provide substantial evidence in support of the determination (*see* 39 U.S.C. 404(d)(5)(c)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record is within 15 days after the date on which the petition for review was filed with the Commission. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service is also within 15 days after the date on which the petition for review was filed with the Commission.

Application for Suspension of Determination. In addition to her Petition, Lelia Vaughn filed an application for suspension of the Postal Service's determination (*see* 39 CFR 3001.114). Because the Postal Service has voluntarily suspended closings of post offices, as discussed above, the application is moot.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participant's submissions also will be posted on the Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Eastern Time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site, *http://www.prc.gov,* or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioners and respondents, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

this case are to be filed on or before January 30, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The Application for Suspension of the Final Determination is dismissed as moot.

2. The procedural schedule listed below is hereby adopted.

3. Pursuant to 39 U.S.C. 505, Malin Moench is designated officer of the Commission (Public Representative) to represent the interests of the general public.

4. The Secretary shall arrange for publication of this notice and order and Procedural Schedule in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

December 20, 2011	Filing of Appeal.
January 4, 2012	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 4, 2012	Deadline for the Postal Service to file any responsive pleading.
January 30, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
January 24, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
February 13, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
February 28, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
March 6, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
April 11, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–368 Filed 1–11–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–102; Order No. 1103]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Parlin, Colorado post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: January 26, 2012, 4:30 p.m., Eastern Time: Deadline for Petitioner's Form 61; February 15, 2012, 4:30 p.m., Eastern Time: Deadline for answering brief in support of the Postal Service. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received two petitions for review of the Postal Service's determination to close the Parlin post office in Parlin, Colorado. The first petition for review received December 22, 2011, was filed by Ruth E. and Laurence E. Dolezal. The second petition for review received December 29, 2011, was filed by Sara S. Swartz. The earliest postmark date is December 13, 2011.The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–102 to consider Petitioners' appeal. If Petitioners would like to further explain their position with supplemental information or facts, Petitioners may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than January 26, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012.'' [1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Categories of issues apparently raised. Petitioners contend that (1) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 39 U.S.C. 404(d)(2)(A)(iii)); and (2) the Postal Service failed to provide substantial evidence in support of the

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

determination (*see* 39 U.S.C. 404(d)(5)(c)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record is within 15 days after the date on which the petition for review was filed with the Commission. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service is also within 15 days after the date on which the petition for review was filed with the Commission.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participant's submissions also will be posted on the Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Eastern Time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site, *http://www.prc.gov,* or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioners and respondents, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before January 30, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The procedural schedule listed below is hereby adopted.

2. Pursuant to 39 U.S.C. 505, James F. Callow is designated officer of the Commission (Public Representative) to represent the interests of the general public.

3. The Secretary shall arrange for publication of this notice and order and Procedural Schedule in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

December 22, 2011	Filing of Appeal.
January 6, 2012	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 6, 2012	Deadline for the Postal Service to file any responsive pleading.
January 30, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
January 26, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
February 15, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
March 1, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
March 8, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
April 11, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–446 Filed 1–11–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–103; Order No. 1104]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Shaftsburg, Michigan post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: January 31, 2012, 4:30 p.m., Eastern Time: Deadline for Petitioner's Form 61; February 21, 2012, 4:30 p.m., Eastern Time: Deadline for answering brief in support of the Postal Service. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received two

petitions for review of the Postal Service's determination to close the Shaftsburg post office in Shaftsburg, Michigan. The first petition for review received December 27, 2011, was filed by Aloise Bachelder. The second petition for review received December 27, 2011, was filed by Everett and Jill Held. The earliest postmark date is December 16, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–103 to consider Petitioners' appeal. If Petitioners would like to further explain their position with supplemental information or facts, Petitioners may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than January 31, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012.'' [1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Categories of issues apparently raised. Petitioners contend that (1) the Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)); and (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 39 U.S.C. 404(d)(2)(A)(iii)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record is within 15 days after the date on which the petition for review was filed with the Commission. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service is also within 15 days after the date on which the petition for review was filed with the Commission.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participant's submissions also will be posted on the Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Eastern Time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site, *http://www.prc.gov,* or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioners and respondents, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before January 30, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The procedural schedule listed below is hereby adopted.

2. Pursuant to 39 U.S.C. 505, Derrick Dennis is designated officer of the Commission (Public Representative) to represent the interests of the general public.

3. The Secretary shall arrange for publication of this notice and order and Procedural Schedule in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

December 27, 2011	Filing of Appeal.
January 11, 2012	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 11, 2012	Deadline for the Postal Service to file any responsive pleading.
January 30, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
January 31, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
February 21, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

PROCEDURAL SCHEDULE—Continued

March 7, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
March 14, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
April 13, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–453 Filed 1–11–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–104; Order No. 1105]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Daisy, Georgia post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES:

January 31, 2012, 4:30 p.m., Eastern Time: Deadline for Petitioner's Form 61;

February 21, 2012, 4:30 p.m., Eastern Time: Deadline for answering brief in support of the Postal Service.

See the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received eleven petitions for review of the Postal Service's determination to close the Daisy post office in Daisy, Georgia. The first petition for review received December 27, 2011, was filed by Inman Brown, Jr., Mayor. The second petition for review received December 27, 2011, was filed by Larry Morgan. The third petition for review received December 27, 2011, was filed by Bill and Priscilla Hearn. The fourth petition for review received December 27, 2011, was filed by Cletus B. Strickland. The fifth petition for review received December 27, 2011, was filed by Carolyn S. Brown. The sixth petition for review received December 27, 2011, was filed by Carroll Skinner. The seventh petition for review received December 27, 2011, was filed by Sarah Rountree. The eighth petition for review received December 27, 2011, was filed by Patricia Ann Strickland. The ninth petition for review received December 27, 2011, was filed by Manuel A. and Blanca Rosa Balcarcel. The tenth petition for review received December 27, 2011, was filed by Carson Sands, Jr. The eleventh petition for review received December 27, 2011, was filed by Joann Griffis. The earliest postmark date is December 12, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–104 to consider Petitioners' appeal. If Petitioners would like to further explain their position with supplemental information or facts, Petitioners may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than January 31, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012.'' [1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Categories of issues apparently raised. Petitioners contend that (1) the Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)); (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 39 U.S.C. 404(d)(2)(A)(iii)); (3) the Postal Service failed to adequately consider the economic savings resulting from the closure (*see* 39 U.S.C. 404(d)(2)(A)(iv)); and (4) the Postal Service failed to follow procedures required by law regarding closures (*see* 39 U.S.C. 404(d)(5)(B)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record is within 15 days after the date on which the petition for review was filed with the Commission. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service is also within 15 days after the date on which the petition for review was filed with the Commission.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participant's submissions also will be posted on the Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section.

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

Docket section hours are 8 a.m. to 4:30 p.m., Eastern Time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site, *http://www.prc.gov,* or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioners and respondents, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before January 30, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The procedural schedule listed below is hereby adopted.

2. Pursuant to 39 U.S.C. 505, Getachew Mekonnen is designated officer of the Commission (Public Representative) to represent the interests of the general public.

3. The Secretary shall arrange for publication of this notice and order and Procedural Schedule in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

December 27, 2011	Filing of Appeal.
January 11, 2012	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 11, 2012	Deadline for the Postal Service to file any responsive pleading.
January 30, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
January 31, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
February 21, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
March 7, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
March 14, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
April 10, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–482 Filed 1–11–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2012–101; Order No. 1102]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Cardwell, Montana post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: January 26, 2012, 4:30 p.m., Eastern Time: Deadline for Petitioner's Form 61; February 15, 2012, 4:30 p.m., Eastern Time: Deadline for answering brief in support of the Postal Service. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at (202) 789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), the Commission received three petitions for review of the Postal Service's determination to close the Cardwell post office in Cardwell, Montana. The first petition for review received December 22, 2011, was filed by Afton Fell. The second petition for review received December 22, 2011, was filed by Misty Hammerbacker. The third petition for review received December 22, 2011, was filed by the Clays of Calico. The earliest postmark date is December 10, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2012–101 to consider Petitioners' appeal. If Petitioners would like to further explain their position with supplemental information or facts, Petitioners may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than January 26, 2012.

Notwithstanding the Postal Service's determination to close this post office, on December 15, 2011, the Postal Service advised the Commission that it ''will delay the closing or consolidation of any Post Office until May 15, 2012.''[1] The Postal Service further indicated that it ''will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12,

[1] United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, (Notice).

2011, including all pending appeals.'' *Id.* It stated that the only ''Post Offices'' subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. It affirmed that it ''will not close or consolidate any other Post Office prior to May 16, 2012.'' *Id.* Lastly, the Postal Service requested the Commission ''to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.'' *Id.*

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. 404(d)(5).

Categories of issues apparently raised. Petitioners contend that (1) the Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)); (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 39 U.S.C. 404(d)(2)(A)(iii)); (3) the Postal Service failed to adequately consider the economic savings resulting from the closure (*see* 39 U.S.C. 404(d)(2)(A)(iv)); and (4) there are factual errors contained in the Final Determination.

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record is within 15 days after the date on which the petition for review was filed with the Commission. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service is also within 15 days after the date on which the petition for review was filed with the Commission.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participant's submissions also will be posted on the Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at (202) 789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Eastern Time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site, *http://www.prc.gov,* or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at (202) 789–6846.

Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioners and respondents, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before January 30, 2012. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The procedural schedule listed below is hereby adopted.

2. Pursuant to 39 U.S.C. 505, Emmett Rand Costich is designated officer of the Commission (Public Representative) to represent the interests of the general public.

3. The Secretary shall arrange for publication of this notice and order and Procedural Schedule in the **Federal Register.**

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

December 22, 2011	Filing of Appeal.
January 6, 2012	Deadline for the Postal Service to file the applicable administrative record in this appeal.
January 6, 2012	Deadline for the Postal Service to file any responsive pleading.
January 30, 2012	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
January 26, 2012	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
February 15, 2012	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
March 1, 2012	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
March 8, 2012	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
April 6, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2012–435 Filed 1–11–12; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–29915; File No. 812–13857]

Central Securities Corporation; Notice of Application

January 6, 2012.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under sections 6(c), 17(d) and 23(c) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act.

SUMMARY: Summary of Application: Applicant requests an order to permit the adoption of an incentive compensation plan. The plan would permit the applicant to issue restricted shares of common stock, restricted stock units, shares of common stock granted as a bonus, and awards denominated in cash.

Applicant: Central Securities Corporation (''Company'').

DATES: *Filing Dates:* The application was filed on January 3, 2011 and amended on October 31, 2011. The applicant has agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 31, 2012, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, Commission, 100 F Street NE., Washington, DC 20549. Applicant, c/o Marlene A. Krumholz, Vice President and Secretary, Central Securities Corporation, 630 Fifth Avenue, New York, NY 10111.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 551–6812, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm*, or by calling (202) 551–8090.

Applicant's Representations

1. The Company, a Delaware corporation, is registered under the Act as a closed-end management investment company. The principal business of the Company is the ownership and management of its investment portfolio, which consists predominantly of equity securities. The Company is internally managed. The Company has six directors (''Board''), five of whom are not ''interested persons'' of the Company, as defined in section 2(a)(19) of the Act (''Non-interested Directors''), and six Employees (as defined below), including three officers, one of whom is also a director and an interested person of the Company. Shares of the Company are listed on the NYSE Amex. As of October 31, 2011, there were 22,779,391 shares of common stock of the Company (''Shares'') outstanding.

2. Because the investment management business is highly competitive, the Company believes that its successful operation will depend on its ability to attract, motivate and retain its professional staff with competitive compensation packages similar to those offered by its competitors. Many of the companies with which the Company competes for management talent are not registered investment companies subject to the restrictions of the Act and thus are able to offer their directors, officers and other personnel various types of non-cash, deferred compensation, including opportunities for equity participation in the enterprise, as well as cash incentive and performance-based compensation. Accordingly, the Company seeks an order permitting the adoption of the Central Securities Corporation 2012 Incentive Compensation Plan (''Plan''). The Plan would permit the Company to issue restricted Shares (''Restricted Stock''),[1] restricted stock units (''Restricted Stock Units''),[2] grants of Shares as a bonus (''Bonus Stock''),[3] and awards denominated in cash (''Cash Awards'') (collectively, ''Awards'') to Eligible Persons who are Employees.[4] Under the Plan, dividend equivalents could be awarded in connection with any Awards under the Plan while the Awards are outstanding or otherwise subject to a restriction period on a like number of Shares. Certain Awards may be subject to performance conditions (''Performance Awards'').[5]

3. The Plan also would permit the Company to make grants of vested Bonus Stock to Non-employee Directors without restrictions. Immediately following each annual meeting of stockholders, each Non-employee Director who is elected a director at, or who was previously elected and continues as a director after, that annual meeting shall receive an award of 500 Shares of Bonus Stock. In addition, at the effective date of any Non-employee Director's initial election to the Board, the Non-employee Director will be granted 500 Shares of Bonus Stock.

4. The Plan as proposed has been approved by the Board, including a majority of the Non-interested Directors. To the extent any material revisions are made to the proposed form of the Plan before it becomes final, the revised form of the Plan will be subject to final approval by the Board, including a majority of the Non-interested Directors. Subject to receipt of the order, the Board is expected to approve the submission of the Plan to stockholders for approval at the annual meeting of the Company in March 2012.

5. The Plan will be administered by the Committee, which will be composed of three or more directors of the Company who (i) are Non-interested Directors, (ii) are ''non-employee directors'' within the meaning of rule 16b–3 under the Securities Exchange Act of 1934 (the ''Exchange Act''), and (iii) are ''outside directors'' as defined under section 162(m) of the Internal Revenue Code of 1986 (the ''Code''). The Plan permits the Committee to approve and recommend to the Board, and the Board has the full and final authority to ratify, grants of Awards.

6. Grants under the Plan may be made only to Eligible Persons. In any thirty-

[1] Restricted Stock is stock that is subject to restrictions on transferability, risk of forfeiture and/or other restrictions.

[2] Restricted Stock Units represent rights to receive stock and are subject to certain restrictions and a risk of forfeiture.

[3] Except as otherwise determined by the compensation committee (''Committee''), Bonus Stock will vest immediately and will not be subject to any restrictions.

[4] ''Eligible Persons'' is defined to mean full-time employees, including officers, of the Company and its subsidiaries (''Employees'') and directors of the Company who at the time an Award is to be granted under the Plan are not Employees (''Non-employee Directors''). Any future subsidiaries will comply with the terms and conditions of any order granted pursuant to this application.

[5] Performance Awards are defined under the Plan as Awards granted to Eligible Persons who are Employees that are conditioned upon satisfaction, during a period of at least one year but no more than ten years, of performance criteria established by the Committee.

six month period during which the Plan is in effect, an Eligible Person may not be granted Awards under the Plan relating to more than 250,000 Shares. In any event, no Eligible Person may be granted Awards denominated by reference to Shares, or be issued Shares in settlement of Awards not initially denominated by reference to Shares, that in the aggregate exceed 35% of the Shares initially reserved for issuance under the Plan, subject to adjustment under the Plan. Cash Awards that are settled in cash will not count against the limit described in the preceding sentence.[6]

7. The total number of Shares reserved and available for delivery in connection with Awards under the Plan is one million Shares. As of October 31, 2011, this represented 4.39% of the outstanding Shares. In no event will the number of Shares reserved and available for delivery in connection with Awards under the Plan exceed 4.4% of the outstanding Shares. The total maximum dilution to the Company's stockholders (in terms of net asset value (''NAV'') per Share) that would result from grants of Awards under the Plan would be approximately 4.21% (assuming that immediately after the effective date of the Plan, Awards covering all Shares available under the Plan are granted as Restricted Stock).

8. In the event that a dividend, capital gain distribution or other distribution, recapitalization, forward or reverse stock split, reorganization, merger, consolidation, spin-off, combination, repurchase, share exchange, liquidation, dissolution or other similar corporate transaction affects the Shares, the Committee will, in such manner as it may deem equitable, adjust any or all of (i) the aggregate number of Shares subject to the Plan; (ii) the number and kind of Shares which may be delivered under the Plan; (iii) the number and kind of Shares by which per-person Award limitations are measured; and (iv) the number and kind of Shares subject to or deliverable in respect of outstanding Awards. In addition, after the occurrence of any such corporate transaction, the Committee will also have the authority to make provision for payment of cash or other property in respect of an Award.

9. In addition, the Plan provides that Shares subject to Awards under the Plan that are canceled, expired, forfeited, settled in cash or otherwise terminated without a delivery of Shares to an Eligible Person, plus (i) the number of Shares withheld in payment of any taxes relating to any Award and (ii) the number of Shares surrendered in payment of any taxes relating to any Award, will again be available for Awards under the Plan, except that if any such shares could not again be available for Awards to a particular Eligible Person under any applicable law or regulation, such Shares will again be available exclusively for Awards to Eligible Persons who are not subject to such limitation.

Applicant's Legal Analysis

Sections 18(d), 23(a) and 23(b) of the Act

1. Section 18(d) of the Act generally prohibits a registered management investment company from issuing rights to purchase the company's shares.[7] The Company states that section 18(d) would prohibit the issuance of certain Awards to Eligible Persons because no corresponding warrants or rights would be issued to shareholders, and such Awards would not be issued in connection with a reorganization.

2. Section 23(a) of the Act generally prohibits a registered closed-end investment company from issuing securities for services. The Company states that because Awards are a form of compensation, the issuance of stock-based Awards to Eligible Persons would constitute the issuance of securities for ''services'' and, therefore, absent an exemption, would fall within the prohibitions of section 23(a).

3. Section 23(b) of the Act prohibits a registered closed-end investment company from selling common stock at below its current NAV. The Company states that, since Shares have often traded at a discount to their NAV and Awards under the Plan will be valued at the Fair Market Value of the stock,[8] section 23(b) would in most cases prohibit the issuance of the Awards.

4. Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes thereof, from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. The Company requests an order under section 6(c) granting exemptions from section 18(d) and sections 23(a) and (b) of the Act to the extent necessary to implement the Plan.

5. The Company states that, because Awards under the Plan may be issued only to Eligible Persons, Awards will not be granted to individuals with interests contrary to those of the Company's stockholders. The Company also asserts that the Plan would not become a means for insiders to obtain control of the Company because the number of shares of stock issuable under the Plan would not exceed 4.4% of the outstanding Shares of the Company. Moreover, as a condition to the requested order, no Eligible Person could be issued more than 35% of the Shares reserved for issuance under the Plan. In addition, in no event may the total number of Shares of the Company, with respect to which all types of Awards may be granted to an Eligible Person under the Plan, exceed 250,000 Shares within any thirty-six month period during which the Plan is in effect.

6. The Company believes that the potential dilutive impact of the Plan would not be significant, particularly if the establishment of the Plan attracts talented professionals who enhance management of the Company's assets, thus increasing the value of the Company's assets and enhancing stockholders' interests. The Company asserts that it needs the flexibility to provide equity-based employee compensation in order to be able to compete effectively with investment management companies for talented professionals. The Company also asserts that equity-based compensation would more closely align the interests of Eligible Persons with those of its stockholders.

7. The Company further states that the Plan will be submitted to stockholders for their approval. The Company represents that the proxy statement to be submitted to its stockholders will contain a concise, ''plain English'' description of the Plan and its potential dilutive effect and will comply with the proxy disclosure requirements in Item 10 of Schedule 14A under the Exchange Act. The Company further notes that the existence and nature of the Awards granted will be disclosed to investors in

[6] Cash Awards may be satisfied in cash, by delivery of the number of Shares valued at the fair market value on the payout date, or a combination thereof, as determined by the Committee. The amount that may be paid to any one Eligible Person with respect to Cash Awards may not exceed $3 million with respect to any fiscal year.

[7] Section 18(d) permits a fund to issue only warrants or rights, ratably to a class of stockholders, that have an exercise period of no more than 120 days or in exchange for warrants in connection with a reorganization.

[8] For purposes of the Plan, ''Fair Market Value'' means the mean of the high and low sale prices of Shares as reported on the NYSE Amex (or such other national securities exchange or automated inter-dealer quotation system on which the Shares have been duly listed and approved for quotation and trading) on the relevant date, or if no sale of Shares is reported for such date, the next preceding day for which there is a reported sale.

accordance with standards or guidelines adopted by the Financial Accounting Standards Board and the requirements of the Commission under Item 402 of Regulation S–K, Item 8 of Schedule 14A under the Exchange Act, and Item 18 of Form N–2. In addition, the Company will comply with the disclosure requirements for executive compensation plans applicable to operating companies under the Exchange Act. The Company concludes that the Plan will be adequately disclosed to investors and appropriately reflected in the market value of its stock.

8. The Company also states that stockholders will be protected by the conditions to the requested order that assure continuing oversight of the operation of the Plan by the Board. Under these conditions, the Board will review the Plan at least annually. In addition, the Committee periodically will review the potential impact that the grant or vesting of Awards could have on the Company's earnings and NAV per Share, such review to take place prior to any decisions to grant Awards, but in no event less frequently than annually. Adequate procedures and records will be maintained to permit such review. The Committee will be authorized to take appropriate steps to ensure that neither the grant nor the vesting of Awards would have an effect contrary to the interests of the stockholders of the Company. This authority will include the authority to prevent or limit the grant of additional Awards.

Section 17(d) of the Act

9. Section 17(d) of the Act and rule 17d–1 under the Act, generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from participating in a joint enterprise, joint arrangement, or profit-sharing plan in which the registered investment company is a participant, unless the Commission by order approves the transaction. Rule 17d–1(c) defines a joint enterprise to include any stock purchase plan. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any officer, director, partner, copartner or employee of such other person. Because all Eligible Persons are either Non-employee Directors or Employees of the Company, the Eligible Persons fall within the scope of section 17(d) and rule 17d–1 and, consequently, are prohibited from participating in the Plan, absent the requested relief.

10. The Company requests an order pursuant to section 17(d) and rule 17d–1 to permit the operation of the Plan. Rule 17d–1 provides that, in considering relief pursuant to the rule, the Commission will consider whether the participation of the registered investment company in such joint enterprise, arrangement or plan is consistent with the policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants. The Company states that the Plan, although benefiting Eligible Persons and the Company in different ways, is in the interests of stockholders of the Company because the Plan will help attract, motivate and retain talented professionals and help align the interests of employees with those of its stockholders. Thus, the Company asserts that the Plan is consistent with the policies and purposes of the Act and that the Company's participation in the Plan will be on a basis no less advantageous than that of other participants.

Section 23(c) of the Act

11. Section 23(c) of the Act generally prohibits a registered closed-end investment company from purchasing any securities of which it is the issuer except in the open market, pursuant to tender offers or under other circumstances as the Commission may permit by order to insure that the purchase is made on a basis that does not unfairly discriminate against any holders of the class or classes of securities to be purchased.

12. The Company states that to the extent that the withholding of Shares by the Company or the delivery of Shares by the Eligible Person in satisfaction of withholding taxes is considered to be a ''purchase'' by the Company of its own securities, section 23(c) would prohibit the transaction. The Company therefore requests an order under section 23(c) to permit these purchases. The Company states that these purchases will be made on a basis which does not unfairly discriminate against the stockholders of the Company because the Company will purchase its shares from Eligible Persons at their Fair Market Value, as defined in the Plan, on the relevant date, which would not be significantly different from the price at which all other stockholders could sell their shares on the NYSE Amex.

Applicant's Conditions

The Company agrees that any order of the Commission granting the requested relief will be subject to the following conditions:

1. The Board will maintain a Committee, none of the members of which will be ''interested persons'' of the Company as defined in the Act. The Committee will administer the Plan and will be composed of three or more directors of the Company who (i) are Non-interested Directors, (ii) are ''non-employee directors'' within the meaning of rule 16b–3 under the Exchange Act, and (iii) are ''outside directors'' as defined under section 162(m) of the Code.

2. The Plan will not be implemented unless it is approved by a majority of the votes cast by stockholders at a meeting called to consider the Plan. Any amendment to the Plan will be subject to the approval of the Company's stockholders to the extent such approval is required by applicable law or regulation or the Board otherwise determines. Unless terminated or amended, during the fifth year of the Plan (and each fifth year thereafter), the Plan shall be submitted for reapproval to the Company's stockholders and all Awards made during that year shall be contingent upon stockholder reapproval.

3. Awards are not transferable or assignable, except as the Committee will specifically approve to facilitate estate planning or to a beneficiary upon an Eligible Person's death or by will or the laws of descent and distribution. Awards may also be transferred pursuant to a qualified domestic relations order.

4. The maximum number of Shares available for delivery in connection with Awards under the Plan (other than any Shares issued in payment of dividend equivalents) will be 1 million Shares, subject to adjustment for corporate transactions, and in no event will the number of Shares reserved and available for delivery in connection with Awards under the Plan exceed 4.4% of the outstanding Shares.

5. The Board will review the Plan at least annually. In addition, the Committee periodically will review the potential impact that the grant or vesting of Awards could have on the Company's earnings and NAV per Share, such review to take place prior to any decisions to grant Awards, but in no event less frequently than annually. Adequate procedures and records will be maintained to permit such review, and the Committee will be authorized to take appropriate steps to ensure that neither the grant nor the vesting of Awards would have an effect contrary to the interests of investors in the Company. This will include the authority to prevent or limit the grant of additional Awards. All records maintained pursuant to this condition

will be subject to examination by the Commission and its staff.

6. Awards under the Plan are issuable only to Eligible Persons. No person will be granted Awards denominated by reference to Shares, or be issued Shares in settlement of Awards not initially denominated by reference to Shares, that in the aggregate exceed 35% of the Shares initially reserved for issuance under the Plan, subject to adjustment under the Plan. Subject to the immediately preceding limitation, in any thirty-six month period during which the Plan is in effect, no person may be granted Awards under the Plan relating to more than 250,000 Shares, which amount may be adjusted to reflect certain corporate transactions or events that affect the Company's stock. Grants to Non-employee Directors are limited to those described in condition 7 below.

7. In each fiscal year, a Non-employee Director will be granted 500 Shares of vested Bonus Stock without restrictions, which amount may be adjusted to reflect certain corporate transactions. At the effective date of any Non-employee Director's initial election to the Board, such Non-employee Director will be granted 500 Shares of vested Bonus Stock without restrictions, which amount may be adjusted to reflect certain corporate transactions.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin O'Neill,

Deputy Secretary.

[FR Doc. 2012–418 Filed 1–11–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66116; File No. SR–BX–2012–001]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Remove References to the Russell® 2000 Index (RUT)

January 6, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 5, 2012, NASDAQ OMX BX, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter XIV (Index Rules) of the Rules of the Boston Options Exchange Group, LLC (''BOX'') to remove references to the Russell® 2000 Index (RUT). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Options on the Russell® 2000 Index (RUT) are no longer listed or traded on BOX, and as such, the Exchange proposes to remove the references to RUT cited below from Chapter XIV (Index Rules) of the BOX Trading Rules.

Supplementary Material .01 to Section 2 of the Index Rules identifies the reporting authorities designated in respect of each underlying index for options traded on BOX, including the Frank Russell Company for RUT.

Section 5 of the Index Rules specifies position limits for certain broad-based index options, including RUT, and the Russell 2000 Value Index and Russell 2000 Growth Index. Neither of these indexes is traded on BOX so the Exchange proposes to delete these references as well.

Section 7 of the Index Rules provides certain exemptions from position limits, and provides a specific exemption related to RUT or the Nasdaq 100 Index. The Exchange proposes to delete the reference to RUT as inapplicable.

Section 10 of the Index Rules permits the Exchange to list up to seven expiration months at any one time for certain broad-based index options, including RUT. Additionally, Section 10(a)(4) specifically references options on RUT as one of the European-style index options approved for trading on BOX, Section 10(a)(5)(ii) references options on RUT as A.M.-settled index options approved for trading on BOX and Section 10 (c) references RUT in its ''Procedures for Adding and Deleting Strike Prices.'' These references will now be inapplicable as RUT will no longer be traded on BOX. As such, the Exchange proposes to delete them.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[5] in general, and Section 6(b)(5) of the Act,[6] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, this proposed change removes from the BOX Trading Rules references to RUT that are no longer applicable because options on RUT have been delisted and are no longer traded on BOX.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[7] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2012–001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–BX–2012–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2012–001 and should be submitted on or before February 2, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill.

Deputy Secretary.

[FR Doc. 2012–481 Filed 1–11–12; 8:45 am]

BILLING CODE 8011–01–P

[7] The Exchange has satisfied this requirement.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66115; File No. SR–NYSEArca–2011–101]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services Replacing Numerical Thresholds With Percentage Thresholds for the Investor Tiers' Volume Requirements

January 6, 2012.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 30, 2011, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (the ''Schedule'') to replace numerical thresholds with percentage thresholds for the Investor Tiers' volume requirements. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Effective January 1, 2012, NYSE Arca proposes to amend the Schedule, as described below.

Investor Tier Volume Requirements: Replacing Numerical Thresholds With Percentage Thresholds

Effective June 1, 2011, NYSE Arca introduced two pricing tier levels, Investor Tier 1 and Investor Tier 2.[4] Currently, Investor Tier 1 allows customers to earn a credit of $0.0032 per share and Investor Tier 2 allows customers to earn a credit of $0.0030 per share for executed orders that provide liquidity to the Book for Tape A, Tape B and Tape C securities when they meet all of the following criteria on a monthly basis:

[4] *See* Securities Exchange Act Release No. 64593 (June 3, 2011), 74 FR 33380 (June 8, 2011) (SR–NYSEArca–2011–34)[sic].

• Maintain a ratio of cancelled orders to total orders of less than 30%. In calculating this ratio, the Exchange will exclude Immediate-or-Cancel orders, which are liquidity removing in nature.

• Maintain a ratio of executed liquidity adding volume to total volume of greater than 80%.

• Firms must add at least 35 million shares of liquidity per day on NYSE Arca to qualify for Investor Tier 1 and add at least 10 million shares of liquidity per day on NYSE Arca to qualify for Investor Tier 2. Trade activity on days when the market closes early is excluded from both Investor Tiers.

The Exchange proposes to change the Investor Tier 1 and Investor Tier 2 adding volume requirements from numerical thresholds (e.g., 35 million shares) to percentage thresholds of average US consolidated daily volumes (e.g., 0.45% of the volumes). Volume requirements to reach the tiered pricing levels will adjust each calendar month based on US average daily consolidated share volume in Tape A, Tape B, and Tape C securities (''US ADV'') for that given month. US ADV is equal to the volume reported by all exchanges and trade reporting facilities to the Consolidated Tape Association Plan for Tapes A, B and C securities; however, US ADV does not include trades on days when the market closes early.

Transactions that are not reported to the Consolidated Tape, such as odd-lots and Crossing Session 2 transactions, are not included in US ADV. The Exchange currently makes this data publicly available on a T + 1 basis from a link at *http://www.nyxdata.com/US-and-European-Volumes.*

In order to adopt a requirement that is consistent from month to month, NYSE Arca is modifying both the 35 million share volume per day requirement (for Investor Tier 1) and 10 million share volume per day requirement (for Investor Tier 2) so that they are directly tied to a customer's percentage of total US ADV. Effective January 1, the per day volume requirement for Investor Tier 1 will be changed from the current 35 million share adding volume per day requirement to adding liquidity that represents 0.45% or more of the total US ADV. Also effective January 1, the per day volume requirements for Investor Tier 2 will be changed from the current 10 million share adding volume per day requirement to adding liquidity that represents 0.20% or more, but less than 0.45% of the total US ADV. All other requirements for Investor Tier 1 and Investor Tier 2 remain unchanged.

For example, if US ADV is 8.5 billion shares in a given month, the minimum adding ADV requirement for Investor Tier 1 would be 38.250 million adding shares a day, and the minimum adding ADV requirement for Investor Tier 2 would be 17.0 million adding shares a day.

NYSE Arca is moving to the percentage approach for several reasons. The Exchange believes that it is a more straightforward way to communicate floating volume tiers and, as noted in a previous filing, other exchanges have adopted a similar approach.[5] The Exchange notes that the percentage approach allows tiers to move in sync with consolidated volume, whereas the current approach has distinct break points and is set at varying percentages of consolidated volume. The proposed change will ensure that a customer providing that level of liquidity will consistently receive the Investor Tier 1 or Tier 2 credits, whereas a customer providing that level of liquidity under the current schedule might receive the Investor Tier 1 or Tier 2 credits in some months but not in others as overall market volumes fluctuated.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Securities Exchange Act of 1934 (the ''Act''),[6] in general, and Section 6(b)(4) of the Act,[7] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes that the proposal does not constitute an inequitable allocation of fees, as all similarly situated member organizations and other market participants will be charged the same amount and access to the Exchange's market is offered on fair and non-discriminatory terms.

With respect to the replacement of share thresholds with percentage thresholds for the adding liquidity requirements in the Investor Tiers, NYSE Arca believes that the change is reasonable, because it will result in more predictability from month to month with respect to the levels of liquidity provision required to receive the applicable pricing levels. Although the changes will make it easier to achieve the applicable Investor Tier in some months and more difficult in other months, depending on overall market volumes, NYSE Arca believes the levels of activity required to achieve the applicable Investor Tier are generally consistent with existing requirements for these tiers. Moreover, like existing pricing tiers tied to volume levels, as in effect at NYSE Arca and other markets, the proposed pricing tiers are equitable and non-discriminatory because they are open to all customers on an equal basis and provide discounts that are reasonably related to the value to an exchange's market quality associated with higher volumes. NYSE Arca believes that the overall effect of the changes may make it easier for customers to receive higher rebates in months with lower trading volumes, thereby reducing prices for those customers that were previously unable to qualify for an enhanced credit, but that are able to do so under the revised pricing schedule.

NYSE Arca also notes that a number of exchanges previously adopted tiers based on percentage thresholds, including Nasdaq, and Direct Edge EDGX.[8] NYSE Arca also previously adopted tiers based on percentage thresholds for its Tier 1, Tier 2, and Tier 3.[9]

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. The Exchange believes that the proposed rule change reflects this competitive environment because it will broaden the conditions under which customers may qualify for higher liquidity provider credits.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not

[5] *See* Securities Exchange Act Release No. 64627 (June 8, 2011), 74 FR 34788 (June 14, 2011) (SR–NYSEArca–2011–35)[sic]. *See* Securities Exchange Act Release No. 64453 (May 10, 2011), 76 FR 28252 (May 16, 2011); and Securities Exchange Act Release No. 64452 (May 10, 2011), 76 FR 28252 (May 16, 2011) [sic]. *See* Nasdaq Stock Market LLC Price List—Trading & Connectivity, ''Add and Remove Rates'' at *http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2#rebates,* and EDGX Exchange Fee Schedule, n. 1 at *http://www.directedge.com/Membership/FeeSchedule/EDGXFeeSchedule.aspx.*

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] *See* n. 5.

[9] *See* Securities Exchange Act Release No. 64627 (June 8, 2011), 74 FR 34788 (June 14, 2011) (SR–NYSEArca–2011–35)[sic].

necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [10] of the Act and subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Arca.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2011–101 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2011–101. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2011–101 and should be submitted on or before February 2, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–419 Filed 1–11–12; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12981 and #12982]

California Disaster #CA–00183

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of California dated 01/05/2012.

Incident: 1502 Golden Gate Fire.

Incident Period: 12/22/2011.

Effective Date: 01/05/2012.

Physical Loan Application Deadline Date: 03/05/2012.

Economic Injury (EIDL) Loan Application Deadline Date: 10/05/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

San Francisco.

Contiguous Counties:

California: San Mateo.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.125
Homeowners Without Credit Available Elsewhere	2.063
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.125
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 129815 and for economic injury is 129820.

The State which received an EIDL Declaration # is California.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: January 5, 2012.

Karen G. Mills,

Administrator.

[FR Doc. 2012–471 Filed 1–11–12; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2011–0087]

Supplemental Security Income and Homeless Individuals

AGENCY: Social Security Administration.

ACTION: Notice; Request for Comments.

SUMMARY: We are requesting information from the public regarding the unique needs of homeless Supplemental Security Income (SSI) recipients, particularly those who live in public emergency shelters for the homeless, in an effort to better understand and

address their needs. The SSI program provides a minimum income level for aged, blind, or disabled persons who do not have income or resources above levels specified in the Social Security Act (Act).

DATES: To ensure that your comments are considered, we must receive them no later than March 12, 2012.

ADDRESSES: You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which of the following methods you choose, please state that your comments refer to Docket No. SSA–2011–0087 so that we may associate your comments with the correct document.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the Internet. Please visit the Federal eRulemaking portal at *http://www.regulations.gov.* Use the Search function of the Web page to find docket number SSA–2011–0087. The system will issue you a tracking number to confirm your submission. It may take up to one week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966–2830.

3. *Mail:* Mail your comments to the Office of Regulations, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov,* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Al Fatur, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–9855. For information on eligibility or filing for benefits, call our national toll-free number, 1–(800) 772–1213 or TTY 1–(800) 325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

The primary goal of the SSI program is to ensure a minimum level of income to people aged 65 or older, blind, or disabled, and who have limited income and resources. SSI serves an important role in the lives of its recipients, including those individuals who are homeless. According to the United States Department of Housing and Urban Development's (HUD) 2010 Annual Homeless Assessment Report, almost 650,000 people were homeless on a single night in January 2010, an increase of 1.1 percent over the same figure in January 2009.[1] HUD also reported that, in 2010, over 1.59 million people spent at least 1 night in an emergency shelter or transitional housing program; the vast majority of these individuals (nearly 80 percent) spent time only in an emergency shelter.[2]

A homeless individual may receive SSI payments and (in some States) associated Medicaid coverage, as long as he or she meets all of the basic eligibility requirements for the SSI program. Subject to some exceptions, residents of public institutions generally are ineligible for SSI[3] because the institution in which they reside provides them with both housing and basic subsistence needs. One of these exceptions provides that individuals who reside in a public emergency shelter for the homeless may be eligible for up to 6 months of SSI payments in any 9-month period.[4] By contrast, individuals who live in *private* shelters for the homeless are eligible to receive SSI payments with no limitation on the number of months if they meet all other SSI eligibility requirements.

Request for Comments

We are requesting information regarding the unique needs of the Nation's homeless population, particularly the needs of those individuals who are SSI recipients and who reside in public emergency shelters, in an effort to better understand and address those needs. We ask that, in preparing comments, you address questions such as:

1. What is your experience with SSI recipients in homeless shelters?

2. In your experience, do both public and private homeless shelters meet the needs of the homeless in the same way? If they differ in how they meet the needs of the homeless, how do they differ?

3. Do individuals rely on public emergency shelters exclusively to address short-term needs, or is transitioning out of such shelters into permanent housing becoming more difficult? Is the short-term assistance provided by public emergency shelters meeting the transitional needs of SSI recipients?

4. What specific needs do public emergency shelters meet?

5. Do public emergency shelters usually address the health care needs of individuals in the shelter? To what extent do individuals in public emergency shelters rely on Medicaid to meet their health care needs?

6. Do residents of public emergency shelters usually lose their Medicaid coverage if they stay longer than 6 consecutive months and their SSI is suspended?

7. Do current SSI eligibility rules present obstacles to homeless individuals who are in need of emergency shelter?

8. Do current SSI eligibility rules present obstacles to individuals who are trying to transition from a public emergency shelter to a permanent living arrangement?

9. After residing in a public emergency shelter for 6 months, do SSI recipients tend to remain there until they can transition to a permanent living arrangement or do they consider other options?

Please see the information under **ADDRESSES** earlier in this document for methods to give us your comments. We will not respond to your comments, but we will consider them as we review our policies and instructions to determine if we should revise or update them.

Michael J. Astrue,

Commissioner of Social Security.

[FR Doc. 2012–406 Filed 1–11–12; 8:45 am]

BILLING CODE 4191–02–P

[1] United States Department of Housing and Urban Development, *The 2010 Annual Homeless Assessment Report to Congress,* at 5, 7 (available at: *http://www.hudhre.info/documents/2010HomelessAssessmentReport.pdf*).

[2] *Id.,* at 9, 10.

[3] *See* section 1611(e)(1)(A) of the Act, 42 U.S.C. 1382(e)(1)(A).

[4] *See* section 1611(e)(1)(D) of the Act, 42 U.S.C. 1382(e)(1)(D) and 20 CFR 416.201 and 416.211(d).

DEPARTMENT OF STATE

[Public Notice 7469]

U.S. Department of State Advisory Committee on Private International Law (ACPIL)—Online Dispute Resolution (ODR) Study Group Meeting

The Office of Private International Law, Office of the Legal Adviser, Department of State, hereby gives notice that the ACPIL Online Dispute Resolution (ODR) Study Group will hold a public meeting on Friday, January 20, 2012 from 10 a.m. to 1 p.m. EDT. The ACPIL ODR Study Group will meet to discuss the results of the

November 2011 session of the UNCITRAL ODR Working Group as well as planning for the next session of that Working Group, scheduled for May 28 through June 1, 2012 in New York City.

The UNCITRAL ODR Working Group is charged with the development of legal instruments for resolving both business to business and business to consumer cross-border electronic commerce disputes. The Working Group has been considering, inter alia, ODR procedural rules for resolution of cross-border electronic commerce disputes.

For the report of the first three sessions of the UNCITRAL ODR Working Group—December 13–17, 2010 in Vienna (A/CN.9/716); May 23–27, 2011 in New York (A/CN.9/721); and November 14–18, 2011 in Vienna (A/CN.9/739)—please follow the following link: *http://www.uncitral.org/uncitral/commission/working_groups/3Online_Dispute_Resolution.html*

Time and Place: The public meeting will take place at the Office of Private International Law, Department of State, Washington, DC in the second floor conference room, Room 240, State Annex 4, South Building, Navy Hill. Participants should appear by 9:30 a.m. at the 23rd and D Street, NW. gate to the Navy Hill compound, so that you can be escorted to the office. If you are unable to attend the public meeting and would like to participate from a remote location, teleconferencing will be available.

Public Participation: This study group meeting is open to the public, subject to the capacity of the meeting room. Access to the building is controlled; persons wishing to attend should contact Tricia Smeltzer or Niesha Toms of the Office of Private International Law at *SmeltzerTK@state.gov* or *TomsNN@state.gov* and provide your name, address, date of birth, citizenship, driver's license or passport number, email address, and mailing address to get admission into the meeting. Persons who cannot attend but who wish to comment are welcome to do so by email to Michael Dennis at *DennisMJ@state.gov*. A member of the public needing reasonable accommodation should advise those same contacts not later than January 13th. Requests made after that date will be considered, but might not be able to be fulfilled. If you are unable to attend the public meeting and you would like to participate by teleconferencing, please contact Tricia Smeltzer (202) 776–8423 or Niesha Toms at (202) 776–8420 to receive the conference call-in number and the relevant information.

Dated: January 6, 2012.

Michael Dennis,

Attorney-Adviser, Office of Private International Law, Office of the Legal Adviser, Department of State.

[FR Doc. 2012–490 Filed 1–11–12; 8:45 am]

BILLING CODE 4710–28–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: In the Vicinity of the City and Borough of Juneau, AK

AGENCY: Alaska Department of Transportation and Public Facilities (DOT&PF), Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA, in cooperation with DOT&PF, will prepare a supplemental environmental impact statement (SEIS) for Juneau Access Improvements, a project to improve surface transportation to and from Juneau within the Lynn Canal corridor.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Haugh, Environmental Program Manager, FHWA Alaska Division, P.O. Box 21648, Juneau, Alaska 99802–1648; office hours 6 a.m. to 3:30 p.m. (AST), phone (907) 586–7430; email *Tim.Haugh@dot.gov.* You may also contact Mr. Reuben Yost, DOT&PF Project Manager, Alaska Department of Transportation and Public Facilities, 6860 Glacier Highway, P.O. Box 112506, Juneau, Alaska 99811–2506; office hours 8:30 a.m. to 5 p.m. (AST), phone (907) 465–1774.

SUPPLEMENTARY INFORMATION: A final environmental impact statement (FEIS) for this project was released on January 18, 2006, and a Record of Decision was approved on April 3, 2006. However, on February 13, 2009, the United States District Court for Alaska determined the FEIS was invalid and vacated the ROD. The SEIS will therefore evaluate a new alternative of improved ferry service using existing assets, as was determined reasonable by the Court. The SEIS will also address any new issues identified and update FEIS alternatives and topics.

The purpose for the project remains the same: to improve surface transportation to and from Juneau within the Lynn Canal corridor to provide travel flexibility, capacity to meet demand, and greater travel opportunity while reducing travel time, state costs, and user costs. In addition to the court ordered alternative, the SEIS will also update the reasonable alternatives evaluated in the FEIS. These include the No Action Alternative (Alternative 1), the East Lynn Highway to Katzehin with Shuttles to Haines and Skagway (Alternative 2B), the West Lynn Canal Highway (Alternative 3), and four primary marine alternatives that would construct new ferries (Alternatives 4A–D). Two of the marine alternatives include a short road extension and a new ferry terminal (Alternatives 4B and 4D).

FHWA anticipates a focused scoping effort prior to commencement of SEIS studies. Letters describing the SEIS process and requesting comments will be sent to appropriate federal, state, and local agencies. Meetings will be held with all Cooperating Agencies and other agencies, as requested. Newspaper notices, newsletters, and Web site postings will explain the SEIS process, describe the new alternative, detail the topics anticipated to be addressed, and request public comments.

Public hearings will be held in Juneau, Haines, Skagway, and Sitka following publication of the draft SEIS. Notice of the hearings and availability of the document will be published in the **Federal Register**, the Juneau Empire, the Chilkat Valley News, the Skagway News, the Sitka Sentinel, and the Anchorage Daily News. Comments or questions concerning the project and the SEIS should be directed to the FHWA or DOT&PF at the addresses provided.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: January 3, 2012.

David C. Miller,

Division Administrator, Juneau, Alaska.

[FR Doc. 2012–408 Filed 1–11–12; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Vehicle Theft Prevention Standard; Fuji Heavy Industries U.S.A., Inc.

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Fuji Heavy Industries U.S.A., Inc.'s (FUSA's) petition for exemption of the Subaru [confidential] vehicle line in

accordance with 49 CFR part 543, *Exemption from the Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard 49 CFR part 541, *Federal Motor Vehicle Theft Prevention Standard.* FUSA requested confidential treatment for specific information in its petition. The agency will address FUSA's request for confidential treatment by separate letter.

DATES: The exemption granted by this notice is effective beginning with the 2013 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Standards, NHTSA, W43–439, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Ballard's phone number is (202) 366–0846. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated October 25, 2011, FUSA requested an exemption from the parts-marking requirements of the theft prevention standard (49 CFR part 541) for the Subaru [confidential] vehicle line, beginning with the 2013 MY. The petition has been filed pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for an entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one vehicle line per model year. In its petition, FUSA provided a detailed description and diagram of the identity, design and location of the components of the antitheft device for the Subaru [confidential] vehicle line. FUSA stated that all Subaru [confidential] vehicles will be equipped with a passive, transponder-based electronic immobilizer device as standard equipment. FUSA stated that the antitheft device and the immobilization features are constructed and designed within the vehicle's Controller Area Network electrical architecture. Major components of the antitheft device will include a transponder, a passive immobilizer system, a key ring antenna, engine control unit and a meter engine control unit. FUSA stated that system immobilization is automatically activated when the key is removed from the vehicle's ignition switch, or after 30 seconds if the ignition is simply moved to the off position and the key is not removed. The device will also include a visible and audible alarm, and panic mode feature. The alarm system will monitor door status and key identification. Unauthorized opening of a door will activate the alarm system causing sounding of the horn and flashing of the hazard lamps. FUSA's submission is considered a complete petition as required by 49 CFR 543.7 in that it meets the general requirements contained in 543.5 and the specific content requirements of 543.6.

In addressing the specific content requirements of 543.6, FUSA provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, FUSA conducted tests based on its own specified standards and provided a list of information of the tests it conducted. FUSA believes that its device is reliable and durable because the device complied with its own specific requirements for each test. Additionally, FUSA stated that since the immobilization features are designed and constructed within the vehicle's overall Controller Area Network Electrical Architecture, the antitheft device cannot be separated and controlled independently from this network.

FUSA stated that it believes that historically, NHTSA has seen a decreasing theft rate trend when electronic immobilization has been added to alarm systems. FUSA stated that it presently has immobilizer devices on all of its product lines (Forester, Tribeca, Impreza, Legacy and Outback models) and it believes the data show immobilization has had a demonstrable effect in lowering its theft rates. Review of the theft rates published by the agency for Subaru vehicles from model years (MYs) 2007–2009 revealed that while there is some variation, the theft rates for Subaru vehicles have on average remained below the median theft rate of 3.5826. Specifically, the agency's theft rate data for the Subaru Tribeca, Forester, Impreza, Legacy and Outback vehicle lines using an average of 3 MYs' data is 0.4396, 0.5677, 0.9135, 0.7681 and 0.4394 respectively.

FUSA also provided a comparative table showing how its device is similar to other manufacturers' devices that have already been granted an exemption by NHTSA. In its comparison, FUSA makes note of Federal Notices published by NHTSA in which manufacturers have stated that they have seen reductions in theft due to the immobilization systems being used. Specifically, FUSA notes claims by Ford Motor Company that its 1997 Mustangs with immobilizers saw a 70% reduction in theft compared to its 1995 Mustangs without immobilizers. FUSA also noted its reliance on theft rates published by the agency which showed that theft rates were lower for Jeep Grand Cherokee immobilizer equipped vehicles (model year 1999 through 2003) compared to older parts-marked Jeep Grand Cherokee vehicles (model year 1995 and 1998). FUSA stated that it believes that these comparisons show that its device is no less effective than those installed on lines for which the agency has already granted full exemption from the parts-marking requirements.

The agency agrees that the device is substantially similar to devices in other vehicle lines for which the agency has already granted exemptions. Based on the evidence submitted by FUSA, the agency believes that the antitheft device for the Subaru [confidential] vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541).

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for an exemption from the parts-marking requirements of part 541 either in whole or in part if it determines that based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that FUSA has provided adequate reasons for its belief that the antitheft device will reduce and deter theft. This conclusion is based on the information FUSA provided about its device.

The agency concludes that the device will provide the five types of performance listed in § 543.6(a)(3): promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

For the foregoing reasons, the agency hereby grants in full FUSA's petition for exemption for the vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release

of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If FUSA decides not to use the exemption for this line, it must formally notify the agency, and thereafter, the line must be fully marked as required by 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if FUSA wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption.

Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: January 6, 2012.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2012–454 Filed 1–11–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2011–0328; Notice No. 11–15]

Safety Advisory: Unauthorized Marking of Compressed Gas Cylinders

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Safety Advisory Notice.

SUMMARY: This is to notify the public that PHMSA has confirmed that Spears Fire & Safety, 287 Jackson Plaza, Ann Arbor, MI improperly requalified and marked high pressure compressed gas cylinders. During a recent investigation, PHMSA determined that between November 2008 and October 2011, Spears Fire & Safety requalified and marked with a Requalifier Identification Number (RIN) ''B037'' approximately 7,740 DOT specification cylinders after its authority to requalifiy high pressure cylinders expired on October 31, 2008. Additionally the investigation revealed that during this period, Spears Fire & Safety (1) failed to condemn cylinders with a permanent expansion greater than 10% of total expansion, (2) on multiple occasions did not maintain the minimum test pressure for the required time and (3) improperly repeated pressure tests on cylinders required to be condemned. Cylinders that have not been properly requalified and marked in accordance with the HMR may not be filled with compressed gas or other hazardous material.

FOR FURTHER INFORMATION CONTACT: Spears Fire & Safety, Mr. Robert Pate, Manager, 287 Jackson Plaza, Ann Arbor, MI, Telephone (734) 633–4133.

SUPPLEMENTARY INFORMATION: PHMSA has recently confirmed that Spears Fire & Safety continued to requalify and mark high pressure cylinders after their authority to requalify cylinders had expired. Spears Fire & Safety's authority to requalify cylinders expired on October 31, 2008 and failed to seek renewal of its authority from the Associate Administrator. However, Spears Fire & Safety continued to requalify cylinders for a period of time up to and including October 14, 2011. The investigation also revealed that Spears Fire & Safety (1) failed to condemn cylinders with a permanent expansion greater than 10% of total expansion (2) on multiple occasions, did not maintain test pressure for the required time period, and (3) performed multiple repeat pressure tests on a cylinder with a permanent expansion greater than 10% of total expansion. Because Spears Fire & Safety improperly pressure tested and marked high pressure cylinders that were required to be condemned, PHMSA questions the condition of all of the cylinders requalified, marked and returned to service by Spears Fire & Safety between November 2008 and October 2011 (approximately 7,740 cylinders). The cylinders in question were marked with Spears Fire & Safety's RIN ''B037''. The markings appear in the following pattern:

B0
M Y
73

Where B037 is Spears Fire & Safety's RIN, M is the month of the retest (e.g. 10) and Y is the year of the retest (*e.g.* 11). Anyone who identifies a cylinder marked with the RIN ''B037'' and a test date after October 2008, are advised to remove these cylinders from service and contact Spears Fire & Safety, Ann Arbor, MI for further instructions.

Issued in Washington, DC, on December 29, 2011.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 2012–394 Filed 1–11–12; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 33 (Sub-No. 299X)]

Union Pacific Railroad Company—Discontinuance of Service Exemption—in Pittsburg, Hughes, and Seminole Counties, OK

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F–*Exempt Abandonments and Discontinuances of Service* to discontinue service over a portion of a line of railroad known as the Shawnee Branch Line, between milepost 428.00, near Seminole, and milepost 370.5, near McAlester, a distance of 57.69 miles,[1] in Pittsburg, Hughes, and Seminole Counties, Okla. (the line). The line traverses United States Postal Service Zip Codes 74501, 74570, 74531, 74848, 74884, and 74868.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; and (3) no formal

[1] UP notes a milepost equation of 402.78 = 402.59 in Hughes County, which makes the line 0.19 miles longer than the terminal mileposts would otherwise indicate.

complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period. UP has further certified that the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.[2]

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will become effective on February 11, 2012, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)[3] must be filed by January 23, 2012.[4] Petitions to reopen must be filed by February 1, 2012, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at ''WWW.STB.DOT.GOV.''

Decided: January 9, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S White,

Clearance Clerk.

[FR Doc. 2012–487 Filed 1–11–12; 8:45 am]

BILLING CODE 4915–01–P

[2] Because this is a discontinuance proceeding and not an abandonment, the proceeding is exempt from the requirements of 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), and 49 CFR 1105.11 (transmittal letter).

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. *See* 49 CFR 1002.2(f)(25).

[4] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

AGENCY: Surface Transportation Board, DOT.

ACTION: Release of Waybill Data; Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on January 5, 2012 (77 FR 551).

FOR FURTHER INFORMATION CONTACT: Marcin Skomial, (202) 245–0344.

SUPPLEMENTARY INFORMATION: On January 5, 2012, the **Federal Register** published a notice at 77 FR 551, which stated that ''[t]he Surface Transportation Board has received a request from Neville Peterson LLP on behalf of Trinity Industries, Inc. (WB605–8–12/20/11) for permission to use certain data from the Board's 2009 Carload Waybill Sample.'' The statement should read ''[t]he Surface Transportation Board has received a request from Neville Peterson LLP on behalf of Trinity Industries, Inc. (WB605–8–12/20/11) for permission to use certain data from the Board's 2010 Carload Waybill Sample.'' All other information remains unchanged.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–372 Filed 1–11–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 9, 2012.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before February 13, 2012 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Avenue NW., Suite 11020, Washington, DC 20220, or on-line at *www.PRAComment.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov*, or the entire information collection request maybe found at *http://www.reginfo.gov.*

Bureau of the Public Debt (BPD)

OMB Number: 1535–0091.

Type of Review: Revision of a currently approved collection.

Title: Regulations Governing U.S. Treasury Securities—State and Local Government Series.

Abstract: Regulations governing U.S. Treasury Securities—State and Local Government Series.

Affected Public: State, Local, and Tribal Governments.

Estimated Total Burden Hours: 4,800.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–442 Filed 1–11–12; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 9, 2012.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before February 13, 2012 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave., NW., Suite

11020, Washington, DC 20220, or online at *www.PRAComment.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request maybe found at *www.reginfo.gov.*

Community Development Financial Institutions (CDFI) Fund

OMB Number: 1559–0005.

Type of Review: Revision of a currently approved collection.

Title: Bank Enterprise Award Program Application.

Form: CDFI 0002.

Abstract: The BEA Program provides incentives to insured depository institutions to increase their support of CDFIs and their activities in economically distressed communities.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 1,125.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–466 Filed 1–11–12; 8:45 am]

BILLING CODE 4810–70–P

FEDERAL REGISTER

Vol. 77 Thursday,
No. 8 January 12, 2012

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 205

National Organic Program (NOP); Sunset Review (2012) for Nutrient Vitamins and Minerals; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–10–0083; NOP–10–09PR]

RIN 0581–AD17

National Organic Program (NOP); Sunset Review (2012) for Nutrient Vitamins and Minerals

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would address a recommendation submitted to the Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB) on April 29, 2011. The recommendation pertains to the 2012 Sunset Review of the listing for nutrient vitamins and minerals on the U.S. Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List). As recommended by the NOSB, the proposed rule would continue the exemption (use) for nutrient vitamins and minerals for 5 years after the October 21, 2012 sunset date. In addition, the proposed rule would amend the annotation to correct an inaccurate cross reference to U.S. Food and Drug Administration regulations (FDA). The proposed amendment to the annotation would clarify what synthetic substances are allowed as nutrient vitamins and minerals in organic products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s)).''

DATES: Comments must be received by March 12, 2012.

ADDRESSES: Interested persons may submit written comments on this proposed rule using the following addresses:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Toni Strother, Agricultural Marketing Specialist, National Organic Program, USDA–AMS–NOP, 1400 Independence Avenue SW., Room 2646-So., Ag Stop 0268, Washington, DC 20250.

Instructions: All submissions received must include the docket number AMS–NOP–10–0083; NOP–10–09PR, and/or Regulatory Information Number (RIN) 0581–AD17 for this rulemaking. Comments should:

• Directly relate to issues or questions raised by the proposed rule;

• Clearly indicate if you are for or against the proposed rule or some portion of it and your reason for your position. Include recommended language changes as appropriate; and

• Be supported by relevant information and data to support your position (e.g., scientific, environmental, manufacturing, industry impact information, etc.). Commenters may include a copy of articles or other references that support their comments. Only the supporting material relevant to your position will be considered.

All comments received will be posted without change to *http://www.regulations.gov.* The NOP is specifically seeking comments on:

1. The actual economic impacts of this action on the industry, including any expected mitigation factors that the industry may use to comply with the proposed action. We are most interested in refining the upper limit estimates referenced in the Regulatory Impact Analysis to specify the actual costs and benefits of this proposal. This would include any comments on the proportion of sales for different sectors of the organic market (*i.e.* infant formula, baby food, fluid milk, breakfast cereals, and pet food) that will be impacted by this action;

2. The adequacy of the estimated impact of the proposed action on small entities; and

3. The length of the proposed compliance date.

Please submit comments related to these topics using the numbering scheme indicated above.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Comments submitted in response to this proposed rule will also be available for viewing in person at USDA–AMS, National Organic Program, 1400 Independence Avenue SW., Room 2646-South Building, Washington, DC, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South Building to view comments received in response to this proposed rule are requested to make an appointment in advance by calling (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Melissa Bailey, Ph.D., Director, Standards Division, Telephone: (202) 720–3252; Fax: (202) 205–7808.

SUPPLEMENTARY INFORMATION:

I. Background

The Organic Foods Production Act of 1990 (OFPA), (7 U.S.C. 6501–6522), authorizes the establishment of the National List. The National List identifies synthetic substances that are exempted (allowed) in organic production and nonsynthetic substances that are prohibited in organic crop and livestock production. The National List also identifies nonagricultural nonsynthetic, nonagricultural synthetic and nonorganic agricultural substances that may be used in organic handling. The exemptions and prohibitions granted under the OFPA are required to be reviewed every 5 years by the National Organic Standards Board (NOSB). The Secretary has authority under the OFPA to renew such exemptions and prohibitions. If the substances are not reviewed by the NOSB within 5 years of their inclusion on the National List and addressed by the Secretary, then their authorized use or prohibition expires under OFPA's sunset provision.

The exemption for the use of nutrient vitamins and minerals in ''organic'' and ''made with organic (specified ingredients or food group(s))'' processed products is scheduled to expire on October 21, 2012. The NOP is taking this action to implement the NOSB recommendation to renew the allowance for nutrient vitamins and minerals through October 21, 2017. The NOP has also determined that, within the current listing for nutrient vitamins and minerals, the cross reference to the FDA's fortification policy for food at 21 CFR 104.20 was not accurate and that a correction to the current listing is necessary. This action would clarify what substances are covered under this exemption, consistent with the intent of the current listing as codified by the NOP final rule (65 FR 80548). This correction would facilitate compliance for organic operations, provide certifying agents greater certainty in assessing compliance and enable consumers to discern what substances may be used in organic foods.

The potential impact of this action, including potential costs that could be incurred, and the alternatives considered are presented as part of the Executive Order 12866 section of this proposed rule. Upon issuance of a final rule on this action, the NOP intends to provide a compliance date of two years from the effective date of the amended listing. Prohibitions on the use of ingredients affected by this action would not be enforced until the compliance date. This timeline is intended to allow time for the NOSB's review of petitions for substances not within the scope of the current listing or amended listing and provides the NOP with an opportunity to initiate rulemaking if the Board recommends that such substances be added to the

National List. In addition, the NOP believes this timeline would provide sufficient time for the organic trade to adjust product formulations based on the Board recommendations and rulemaking or to consider relabeling products.

The Secretary appointed members to the NOSB for the first time in January 1992. The NOSB began holding formal committee meetings in May 1992 and its first full Board meeting in September 1992. The NOSB's initial recommendations were presented to the Secretary on August 1, 1994.

In advance of the Board's November 1995 meeting, two technical advisory panel (TAP) reports, one for ''Nutrient Vitamins'' and one for ''Nutrient Minerals'', were prepared. These reports were developed to inform the Board's assessment of nutrient vitamins and minerals in consideration of the evaluation criteria for substances considered for inclusion on the National List as established in section 2119(m) of OFPA. The vitamins identified in the TAP review included: vitamins A, D, E, K, C, B6, B12; folic acid; thiamin (B1); riboflavin (B2); and biotin. The minerals identified in the TAP report for nutrient minerals included: Calcium; phosphorus; magnesium; sulfur; copper; iodine; iron; manganese; and zinc.[1]

During the NOSB's November 1995 meeting, the NOSB finalized two recommendations regarding the addition of nutrient substances to organic food. These recommendations were developed to inform the establishment of the National Organic Program (NOP) regulations, including the National List. The first recommendation supported the addition of nutrient vitamins and minerals to the National List with the following annotation, ''Accepted for use in organic foods for enrichment or fortification when required by regulation or recommended by an independent professional organization.'' [2] During the deliberations on this recommendation, there was discussion about what was meant by ''independent professional organizations'' and a clarification was made that this recommendation did not mean that vitamins and minerals should be exempt from the National List process.

The second recommendation entitled ''Final Recommendation Addendum Number 13, The Use of Nutrient Supplementation in Organic Food,'' articulated the Board's preference regarding the use of vitamins, minerals, and/or accessory nutrients.[3] It stated, ''Upon implementation of the National Organic Program (NOP), the use of synthetic vitamins, minerals, and/or accessory nutrients in products labeled as organic must be limited to that which is required by regulation or recommended for enrichment and fortification by independent professional associations.'' The Board clarified that the term ''accessory nutrients'' referred to nutrients, ''not specifically classified as a vitamin or mineral but found to promote optimal health.'' The Board commented that excluding the use of accessory nutrients could limit the potential for organic foods to capitalize on future nutritional findings.

Based on the NOSB's recommendations, the Agricultural Marketing Service (AMS) published a proposed rule on March 13, 2000 (65 FR 13512).[4] The rule proposed an allowance for nutrient vitamins and minerals in processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s))'' with the following language: ''Nutrient vitamins and minerals in accordance with 21 CFR 104.20, Nutritional Quality Guidelines for Foods.'' The regulation cited as part of this listing refers to the fortification policy for food under the FDA's jurisdiction. This policy establishes uniform principles for the rational addition of nutrients to foods. In response to the proposed rule, the NOSB submitted a comment recommending that 21 CFR 104.20 ''not be the reference for the allowance of nutrient vitamins and minerals'', but did not provide additional context for this position or propose alternate regulatory references.[5]

On December 21, 2000, AMS published a final rule establishing the National Organic Program (65 FR 80548). The final rule retained the listing for nutrient vitamins and minerals as proposed. In the discussion of comments received, the NOP acknowledged commenters' suggestions that 21 CFR 104.20 was not adequate and should be accompanied by a reference to 21 CFR 101.9(c)(8) for FDA-regulated foods. In the preamble to the final rule, the NOP stated that such suggestions were not appropriate because 21 CFR 101.9 pertained to the declaration of nutrition information on the label and in labeling of a food rather than provisions for nutritional supplementation (65 FR 80615). However, as discussed below, recent consultation with the FDA clarified that 21 CFR 101.9 does identify essential vitamins and minerals.

In 2006, the NOP received a complaint challenging the use of docosahexaenoic acid (DHA) and arachidonic acid (ARA) derived from algae and microbes, respectively (hereinafter referred to as DHA/ARA single-cell oils), in organic infant formulas.[6] The review of the complaint also led to questions concerning the use of taurine and nucleotides in organic infant formula. In November 2006, the NOP closed the complaint stating, ''The NOP determined that accessory nutrients, that are non-agricultural, are allowed in the production of products to be sold, labeled or represented as organic under the NOP; provided, they are used in full compliance with Food and Drug Administration (FDA) rules and regulations. Non-agricultural accessory nutrients are covered under § 205.602(b) Synthetics allowed, of the NOP National List (nutrient vitamins and minerals) * * * Nutrients allowed under § 205.605(b) are not limited to the nutrients listed in [21 CFR] § 104.20(d)(3), because [21 CFR] § 104.20(f) provides that nutrients may be added to foods as permitted or required by applicable regulations established elsewhere by FDA; for example, 21 CFR Part 107 Infant Formula * * * In summary, we have determined that if added ingredients

[1] NOSB, 1995. Nutrient Minerals Technical Advisory Panel Review. NOP Web site, Petitioned Substances Database, ''N'', available at *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5067005&acct=nopgeninfo* NOSB, 1995. Nutrient Vitamins Technical Advisory Panel Review. NOP Web site, Petitioned Substances Database, ''N'', available at: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5067006&acct=nopgeninfo.*

[2] NOSB, 1995. Final Minutes of the National Organic Standards Board Full Board Meeting Austin, Texas, October 31–November 4, 1995, available at: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5057496.*

[3] NOSB, 1995, Final Recommendation Addendum Number 13, *The Use of Nutrient Supplementation in Organic Foods,* available at: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=stelprdc5058973.*

[4] The proposed rule published in March 2000, was the second proposed rule for the National Organic Program. The first proposed rule was published on December 16, 1997 (62 FR 65850). The National List section in the 1997 proposed rule contained an exemption for ''Nutrient supplements.''

[5] NOSB Comments to Proposed Rule 7 CFR part 205 (Docket TMD–00–02–PR); submitted June 12, 2000.

[6] DHA and ARA are omega-3 and omega-6 fatty acids, respectively, which are naturally present in certain foods. Dietary sources of DHA include: cold water fatty fish, meats, and eggs. Dietary sources of ARA include: meat, poultry and eggs. Humans can convert the omega-3 fatty acid alpha-linolenic acid (ALA) to DHA and the omega-6 fatty acid linoleic acid (LA) to ARA. Natural sources of LA and ALA include: vegetable oils, nuts, seeds and some vegetables. Reference: University of Maryland Medical Center, Omega-3 Fatty Acids. Available online at: *http://www.umm.edu/altmed/articles/omega-3-000316.htm.*

such as DHA, ARA, nucleotides and taurine are used in full compliance with FDA rules and regulations, they would comply with the NOP National List as currently written.''

In November 2008, the NOP received an inquiry from a certifying agent regarding the allowance of lutein ester (crystalline lutein), a carotenoid, under the listing for nutrient vitamins and minerals in § 205.605(b). The NOP consulted with the FDA and provided a written response which stated, ''The FDA has determined that ''Crystalline Lutein'' does not fall under current fortification policy * * * The nutrients listed in [21 CFR] § 104.20(d)(3) are those that fall under this policy.'' The NOP statement that the ''accessory nutrient'', lutein ester, is not allowed under the nutrient vitamin and mineral listing at § 205.605(b) is in conflict with the 2006 NOP complaint closure letter that stated that ''accessory nutrients'' were allowed under the FDA fortification policy.

On March 26, 2010, the NOP published an Advance Notice of Proposed Rulemaking (ANPR) to announce the pending sunset of substances on the National List and opened the public comment process on whether existing exemptions for specified synthetic and nonsynthetic substances in organic handling should be continued (75 FR 14500).[7] The ANPR indicated that the exemption for the use of nutrient vitamins and minerals as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s))'' would expire after October 21, 2012, if the listing was not renewed. The public comment period lasted 60 days. Comments were received from organic handlers, ingredient suppliers and trade associations. Comments received supported the continued listing of nutrient vitamins and minerals in organic handling. The written comments can be retrieved at *http://www.regulations.gov* by searching for the document ID number: AMS–NOP–09–0074. The NOP provided the NOSB with these public comments to consider in their future deliberations on the status of nutrient vitamins and minerals in organic products after the 2012 sunset date.

Because of continued confusion in the organic industry about the allowance of certain added ingredients, such as DHA, ARA, taurine, and nucleotides, in organic products, the NOP met with FDA staff from the Office of Nutrition, Labeling and Dietary Supplements in April 2010 for clarification of the scope of 21 CFR 104.20. The FDA explained that ''nutrients'' as referenced in 21 CFR 104.20(f) is intended to pertain only to those nutrients listed in section 104.20(d)(3) and as specified in the standards of identity (21 CFR parts 130–169) for a food or class of foods. The standards of identity for enriched cereal-flours and related products, for example, require fortification at specified levels with thiamin, riboflavin, niacin, iron and folic acid (21 CFR part 137). The FDA noted that some foods have separate requirements, and are not subject to 21 CFR 104.20, such as infant formula which must comply with the nutrient requirements at 21 CFR 107.100. The NOP participated in a follow-up discussion with FDA in February 2011, the details of which are discussed below.

In April 2010, the NOP issued an ''Action Memorandum to the Chairman of the National Organic Standards Board'' at the NOSB meeting to advise the NOSB about the clarifications provided by FDA.[8] The memorandum conveyed FDA's interpretation of the fortification policy, as stated in the above paragraph, and requested that the NOSB reexamine the codified listing for nutrient vitamins and minerals to determine what substances are permitted under its scope as part of the scheduled sunset 2012 review. The NOP specifically asked the NOSB to consider: ''Are the ''nutrient vitamins and minerals'' specified within 21 CFR 104.20 aligned with the 1995 NOSB recommendation? If not, are there substances that should be prohibited or additional substances that should be allowed?'' This memo stated that the previous interpretation of 21 CFR 104.20 Nutritional Quality Guidelines for Foods was incorrect. The memo also conveyed the NOP's plan to issue guidance on nutrient vitamins and minerals that would align with the FDA fortification policy. On March 9, 2011, the NOSB Handling Committee's Sunset 2012 Proposed Recommendation for nutrient vitamins and minerals was posted for public review and comment.[9] The NOSB Handling Committee recommended that the listing be renewed as follows:

§ 205.605(b): Nutrient Vitamins and Minerals, restricted to materials required or allowed by law for the purpose of enrichment, supplementation or fortification of foods including infant formula, and materials the use of which is supported by the FDA or the Institute of Medicine of the National Academies.'' The NOSB Handling Committee stated that they intended to ''restore the 1995 NOSB recommendation,'' and reasoned that, ''Review of the original recommendations, historical documents, and public comments does not reveal unacceptable risks to the environment, human, or animal health as a result of the use or manufacture of these materials.'' [10]

The NOSB Handling Committee received approximately 2,000 comments on their proposed recommendation to change the annotation for nutrient vitamins and minerals. The majority of comments opposed the NOSB Handling Committee's proposal. Many commenters voiced concern that the proposal would allow, without NOSB review, any synthetic nutrient additive to be allowed in organic products. These commenters stated that only essential nutrients required by the FDA should be allowed in organic products. A trade organization and an organic nonprofit organization specifically suggested that the Committee instead consider an annotation for nutrient vitamins and minerals that would allow essential vitamins and minerals required by FDA in infant formula and other foods. Some commenters further emphasized that the Committee's proposal would allow an open ended list of allowed substances. These commenters stated that the proposal was not consistent with the required petition and NOSB review process for the National List and, if passed, would provide for a list of substances that certifying agents would have difficulty verifying for compliance

[7] The Sunset 2012 ANPR also pertained to the exemptions for synthetic substances and prohibitions for nonsynthetic substances used in crop and livestock production.

[8] NOP, 2010, Action Memorandum for the Chairman of the National Organic Standards Board, Scope of Nutrient Vitamins and Minerals in Organic Food, available at *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5084068&acct=nosb.*

[9] NOSB, 2011, Handling Committee Sunset 2012 Proposed Recommendation Nutrient Vitamins and Minerals, available at *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5089727&acct=nosb.*

[10] Prior to the April 2011 NOSB meeting, the Board indicated that nutrient vitamins and minerals would be withdrawn from the agenda and postponed until the next meeting in Fall 2011. The NOP voiced concern that delaying a sunset vote on nutrient vitamins and minerals would not allow adequate time to publish proposed and final rules to implement the Board's recommendation prior to the sunset date of October 21, 2012. In that scenario, the listing for nutrient vitamins and minerals would expire and use of synthetic vitamins and minerals would be prohibited in organic foods. The NOP urged the Board to complete the sunset recommendation at the April 2011 meeting as originally scheduled to allow time for completion of rulemaking and to avoid significant disruption to the organic food industry. The NOSB agreed to retain the nutrient vitamins and minerals sunset recommendation on the April 2011 meeting agenda.

during the organic certification process. These commenters advocated for the NOSB to individually review and approve any synthetic additives not provided for on the National List per the OFPA requirements. Other comments supported the proposal for an allowance for nutrient additives based upon the idea that certain additives may have health benefits and that, without these additives, consumers may consider organic products nutritionally inferior to conventional products. In response to these comments, the Committee withdrew the proposal prior to the April 26–30, 2011, NOSB meeting.

In April 2011, the FDA provided written responses to the questions posed by NOP concerning whether the FDA recognizes or defines ''accessory nutrients'' and the scope of nutrients covered under the fortification policy. The letter, dated April 14, 2011, reflects the points of discussion during a February 2011 meeting between NOP and FDA.[11] FDA's responses reiterated and expanded upon the information conveyed during an April 2010 NOSB meeting at which the NOP discussed their understanding of FDA's fortification policy.

The FDA explained that the fortification policy at 21 CFR 104.20 provides for the rational addition of essential nutrients to food for human consumption and the term, ''accessory nutrients,'' is not defined or used in the fortification policy. FDA considers only ''essential nutrients'' to be within the scope of its fortification policy at 21 CFR 104.20. The nutrients which FDA has determined to be essential are enumerated in 21 CFR 101.9(c)(8)(iv) with corresponding Reference Daily Intakes (RDIs), and 21 CFR 101.9(c)(9), which includes protein and potassium and the corresponding Daily Reference Values (DRVs). FDA stated that substances identified by USDA as ''accessory nutrients'' such as omega-3 and omega-6 fatty acids, inositol, choline, carnitine, and taurine are not essential nutrients listed under 101.9(c)(8)(iv) and are, therefore, not within the scope of FDA's fortification policy at 21 CFR 104.20. The FDA also clarified that infant formula is not within the scope of the fortification policy; the requirements in 21 CFR part 107 pertain to required and essential nutrients for infant formula and include minimum and maximum amounts for those nutrients.

At the April 2011 NOSB meeting, the NOP suggested that the NOSB amend the annotation for nutrient vitamins and minerals to cite the regulatory references, 21 CFR 101.9, 21 CFR 107.10 and 21 CFR 107.100, which identify essential and approved vitamins, minerals and other nutrients for infant formula and fortification of food. The NOP suggested that an annotation change would correct an inaccurate cross reference to FDA fortification policy for food at 21 CFR 104.20. The NOP further explained that this annotation change would expand the allowance for certain nutrients by providing for the continued use of essential nutrients in organic infant formula; the use of essential nutrients in infant formula is not covered under the existing FDA reference in the NOP regulations. The NOP also stated that the listing for nutrient vitamins and minerals should encompass a clear, discernible list of permitted substances. The proposed change would convey the intent of the codified listing by coherently and accurately stating which synthetic nutrient substances may be added to organic food and organic infant formula.

At the conclusion of the April 2011 meeting, the NOSB approved a recommendation to renew the listing for nutrient vitamins and minerals as presently codified without amendment.[12] The Board signaled its intent to propose an annotation change to the nutrient vitamins and minerals listing at its November 2011 meeting, after considering the information provided by FDA and the numerous public comments addressing this issue. However, since NOP is taking action to amend the listing through this proposed rule, the NOSB has opted to remove proposing a recommendation for an annotation change on nutrient vitamins and minerals from their November 2011 meeting agenda. In addition to the ANPR for Sunset 2012 published on March 26, 2010, the NOSB received additional public comment concerning the pending sunset of this listing in response to three **Federal Register** notices announcing meetings of the NOSB and its planned deliberations on recommendations involving Sunset 2012 substances. The notices were published in the **Federal Register** as follows: March 17, 2010 (75 FR 12723), September 20, 2010 (75 FR 57194), and March 4, 2011 (76 FR 12013). The NOSB received further written and oral testimony concerning nutrient vitamins and minerals at all three of these public business meetings which occurred in Woodland, CA on April 26–29, 2010, in Madison, WI on October 25–28, 2010, and in Seattle, WA on April 26–29, 2011. The written comments can be retrieved via *http://www.regulations.gov* by searching for the document ID numbers: AMS–NOP–10–0021 (May 2010 meeting); AMS–NOP–10–0068 (October 2010 meeting); and AMS–NOP–11–05 (April 2011 meeting). The oral comments were recorded in the meeting transcripts available on the NOP Web site, *http://www.ams.usda.gov/nop.*

II. Overview of Proposed Amendments

This proposed rule would amend § 205.605 of the National List regulations by amending paragraph (b) that currently reads: ''Nutrient vitamins and minerals, in accordance with 21 CFR 104.20, Nutritional Quality Guidelines For Foods'' to be revised as follows: ''Vitamins and minerals. For food—vitamins and minerals identified as essential in 21 CFR 101.9. For infant formula—vitamins and minerals as required by 21 CFR 107.100 or 107.10.''

This proposed change conveys the intent of the codified listing by coherently and accurately stating which synthetic nutrient substances may be added to organic food and organic infant formula. The parameters of the amended listing are based upon FDA's determination of which vitamins and minerals are essential for human nutrition and required in infant formula which is consistent with the intended purpose of the current listing. Nutrients which are not considered essential vitamins and minerals, by the FDA (under 21 CFR 101.9(c)(8)(iv)), would be subject to individual evaluation in accordance with the criteria set forth in sections 6517(c) and 6518(m) of OFPA and § 205.600 of the NOP regulations. Petitions for the addition of such substances to the National List need to be submitted in accordance with the Guidelines on Submitting National List Petitions (72 FR 2167).[13]

The NOP regulations as promulgated, contained the listing for ''Nutrient vitamins and minerals in accordance with 21 CFR 104.20, Nutritional Quality Guidelines for Foods,'' in § 205.605(b) of the National List. In effect, that provision permits the addition of synthetic forms of nutrient vitamins and

[11] FDA Response to NOP—Questions and Answers Regarding Nutrient Fortification of Foods. April 14, 2011. Available at *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5090415.*

[12] NOSB, 2011, Formal Recommendation by the National Organic Standards Board (NOSB) to the National Organic Program (NOP), Nutrient Vitamins and Minerals Sunset, available at *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5091724.*

[13] The Guidelines on Submitting National List Petitions is available at *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5048809&acct=nopgeninfo.*

minerals to processed products labeled ''organic'' or ''made with organic (specified ingredients or food group(s)).'' However, the NOP incorrectly interpreted FDA's fortification policy, codified at 21 CFR 104.20, and allowed substances that are not authorized under the current reference in the NOP regulations.

Two sections, 21 CFR 104.20(d)(3) and (f), have caused confusion and incorrect interpretations of which substances are allowed in organic foods. Section 104.20(d)(3) identifies 21 nutrients (19 vitamins and minerals with a Recommended Dietary Intake (RDI), plus protein and potassium which each have a Dietary Reference Value (DRV)) which may be added to foods in accordance with conditions specified within section 104.20. The FDA fortification policy specifies the circumstances under which these 21 nutrients may be added to food: To correct a dietary insufficiency; restore nutrients to a level representative of the food prior to storage, handling and processing; maintain a balanced nutrient profile; improve the quality or a replacement food; or be added as permitted or required by another FDA regulation. In the context of organic production, the fortification policy referenced in the current nutrient vitamins and minerals listing covers only the vitamins and minerals identified in § 104.20(d)(3).

In 2006, the NOP incorrectly interpreted 21 CFR 104.20(f), which states, ''Nutrient(s) may be added to foods as permitted or required by applicable regulations established elsewhere in this chapter.'' The NOP interpreted ''or required by applicable regulations established elsewhere in this chapter,'' as allowing the addition of a broader range of nutrients to organic products than those specified in § 104.20(d)(3). According to this interpretation, the fortification policy for food included the nutrition specifications for infant formula and nutrients for which there is Generally Regarded as Safe (GRAS) notification or the manufacturer's self-determination of GRAS. The FDA maintains a GRAS Notice Inventory: *http://www.fda.gov/Food/FoodIngredientsPackaging/GenerallyRecognizedasSafeGRAS/GRASListings/default.htm*.

Fortification of Foods

To correct the previous interpretation and provide firm guidance to the organic industry, the NOP sought clarification from FDA regarding the scope of nutrients, vitamins and minerals permitted by the fortification policy for addition to foods. The FDA informed the NOP that the fortification policy covers the nutrients identified in (i) 21 CFR 104.20(d)(3), (ii) an additional 6 nutrients that have been determined essential listed in 21 CFR 101.9(c)(8)(iv), and (iii) nutrients as required by other FDA regulations, which include those pertaining to a common or usual name (21 CFR part 102), standard of identity (21 CFR parts 130–169), or nutritional quality guideline (21 CFR 104.47). This contrasts with current practices in certain sectors of the organic industry which have added nutrients to types of organic products, such as infant formula or pet food, which are not covered under the fortification policy. Added ingredients which are confirmed or self-determined as GRAS, but not designated as essential nutrients by FDA, have also been added to organic products. Examples of ingredients added to organic products which are outside the parameters of FDAs fortification policy include certain forms of DHA and ARA in fluid milk and dairy products, and taurine in pet food.[14]

Since the establishment of the fortification policy in 1980, the FDA has designated six other nutrients as ''essential'' and permitted for fortification in foods. These include Vitamin K, manganese, selenium, chromium, molybdenum and chloride. As indicated in 21 CFR 104.20(a), the list of nutrients in (d)(3) was not expected to remain static: ''It is reasonable to anticipate that the Reference Daily Intakes (RDI's) as delineated in § 101.9 of this chapter and in paragraph (d) of this section will be amended from time to time to list additional nutrients and/or to change the levels of specific RDI's as improved knowledge about human nutrient requirements and allowances develops.''

Therefore, the FDA suggested to NOP that a more appropriate reference to capture all of the essential vitamins and minerals that may be permitted for fortification of food, in accordance with the conditions specified in the fortification policy, is 21 CFR 101.9(c)(8)(iv) and potassium (101.9(c)(9)). The NOP is proposing to amend the current listing for nutrient vitamins and minerals to include this reference for fortification of foods. Paragraph (c)(8)(iv) in § 101.9 identifies 25 vitamins and minerals which are essential in human nutrition and their corresponding Reference Daily Intake (RDI) values. Paragraph (c)(9) in § 101.9 includes the listing for potassium and the corresponding Daily Reference Value (DRV). The RDI and potassium DRV values specified in 21 CFR 101.9 are based on the National Academy of Sciences' Recommended Daily Allowance and ''Estimated Safe and Adequate Daily Dietary Intakes.'' The NOP expects that the NOSB will review any FDA updates or additions pertaining to the requirements for essential vitamins and minerals, as codified in 21 CFR 101.9, during future sunset reviews of the vitamins and minerals listing.

Infant Formula

The NOP is also proposing to amend the current listing for nutrient vitamins and minerals by adding the regulatory references that are applicable to the FDA nutrient specifications for infant formula. According to FDA, the fortification policy for food does not apply to infant formula. The FDA developed separate nutrient specifications for infant formula. The NOP allowance for nutrient vitamins and minerals, as codified, references only the fortification policy for food, and, therefore, does not provide for the addition of vitamins and minerals in organic infant formula.

In practice, however, NOP-certified organic infant formulas which comply with the FDA nutrient requirements have been produced for years. This was based upon an interpretation advanced by the NOP that the FDA fortification policy extended to the nutrient specifications for infant formula. Most of the organic infant formulas in the current marketplace contain some added ingredients which are permitted, but not required by FDA, such as, ARA, DHA, nucleotides, taurine, carnitine, lutein and lycopene. This proposed action, incorporating the FDA nutrient requirements for infant formula, would ensure that there is no unintended impediment to the continued formulation of organic infant formula with vitamins and minerals to comply with FDA requirements. This proposed action would also prohibit the use of non-required ingredients added to organic infant formula, such as ARA, DHA, nucleotides, taurine, carnitine, lutein, and lycopene, unless the NOSB issues recommendations to add any such substances to the National List and

[14] Section 205.606 of the National List identifies two components of fish oil, by Chemical Abstracts Service (CAS) numbers, that are allowed as ingredients in organic products. These are the omega-3 fatty acids, eicosapentaenoic acid (EPA) and docosahexaenoic acid (DHA). Forms of DHA which do not meet these criteria are not otherwise allowed in organic products as a nutrient vitamin or mineral, regardless of GRAS designation. FDA has not determined that either DHA or ARA are essential nutrients for the fortification of food. Pet food does not fall within the scope of FDA's fortification policy. The NOP will address nutrient vitamins and minerals in pet food through a separate rulemaking.

such recommendations are codified through rulemaking.

The infant formula nutrient specifications at 21 CFR 107.100 stipulate the required vitamins and minerals and the corresponding minimum and maximum levels at which these may be present in infant formula. Section 21 CFR 107.100 identifies all required vitamins and minerals for infant formula with the exception of selenium, the addition of which is allowed for in 21 CFR 107.10. Paragraph (b)(5) of section 107.10 provides that any additional vitamin or mineral may be declared on the label provided it has been identified as essential by the National Academy of Sciences or FDA and is provided at a level, if known, considered to have biological significance through publications by the National Academy of Sciences or by FDA in the **Federal Register**. Selenium has been identified as essential by the National Academy of Sciences. The FDA advised that sections 107.100 and 107.10, in combination, would account for all of the vitamins and minerals required in infant formula. The incorporation of section 107.10 will ensure that any vitamins and minerals which are declared essential and added to infant formula in the future will be allowed in organic infant formula. This will enable manufacturers of organic infant formula to apply significant nutritional findings concerning vitamin and mineral requirements without delay. Section 107.100 also requires certain levels of protein, fat and linoleic acid in infant formula. As these nutrients are available from agricultural sources, the NOP expects that these will be provided in organic form.

As a result of this proposed action, the essential vitamins and minerals listed as RDI in 101.9(c)(8)(iv) and potassium listed as DRV (101.9(c)(9)) would be permitted for addition to organic foods; in addition, the vitamins and minerals required by FDA for infant formula, would be permitted for addition to organic infant formula. An essential vitamin or mineral must have a safe and lawful source, e.g., the substance must be an approved food additive or GRAS under the conditions of the intended use, and there should be no determination by FDA, in regulation or matter of policy, that fortification with that nutrient is inappropriate. To convey that vitamins and minerals are the only types of substances permitted under this categorical allowance, the proposed amendment omits the word ''nutrient'' because that term encompasses a wider range of substances.

Over the last ten years, the NOP incorrectly allowed a broad allowance of ''accessory nutrients'' that is not aligned with the codified allowance for nutrient vitamins and minerals in organic products, as confirmed by FDA's clarification of the scope of the fortification policy. In practice, added ingredients, which are considered GRAS (either via GRAS notification submission or a manufacturer's self-determination), but are not designated as essential vitamins and minerals per FDA (21 CFR 101.9(c)(8)(iv)), are being added to organic products based upon an incorrect NOP interpretation of FDA fortification policy. The proposed action will clarify which vitamins and minerals are allowed in organic food products, allow organic infant formula to contain essential vitamins and minerals, and ensure the NOSB reviews and approves all substances used in organic production and handling. Moreover, this proposed action does not preclude the potential to add individual exemptions for additional nutrients to the National List. Such substances can be petitioned for inclusion on the National List and would be subject to individual evaluation by the NOSB according to the criteria established in OFPA and the NOP regulations for such purpose.

In effect, this proposed action would permit the following vitamins and minerals in organic foods (in accordance with FDA specifications for use): Vitamins A, C, K, D, E, thiamin, riboflavin, niacin, B6, B12, biotin, folate, pantothenic acid, calcium, iron, phosphorus, magnesium, zinc, iodine, copper, potassium, selenium, manganese, chromium, molybdenum, and chloride. This proposed action would also permit the following vitamins and minerals in organic infant formula: Vitamins A, C, K, D, E, thiamin, riboflavin, niacin, B6, B12, biotin, folic acid, pantothenic acid, choline, inositol, calcium, iron, phosphorus, magnesium, zinc, iodine, copper, sodium, potassium, selenium, manganese, and chloride. Table 1 compares the vitamins and minerals allowed under the current 21 CFR 104.20 reference and illustrates the complete set of vitamins and minerals that would be permitted in organic food and infant formula per this proposed action.

TABLE 1—SUMMARY OF REGULATORY REFERENCES FOR VITAMINS AND MINERALS IN ORGANIC FOOD AND ORGANIC INFANT FORMULA

Substance	Current reference for nutrient vitamins and minerals per 21 CFR 104.20(d)(3)	Proposed reference for vitamins and minerals	
		Food Essential per 21 CFR 101.9(c)(8) or 101.9(c)(9)	Infant formula Required per 21 CFR 107.100 or 107.10
Vitamin A	Yes	Yes	Yes.
Vitamin C	Yes	Yes	Yes.
Calcium	Yes	Yes	Yes.
Iron	Yes	Yes	Yes.
Vitamin D	Yes	Yes	Yes.
Vitamin E	Yes	Yes	Yes.
Vitamin K		Yes	Yes.
Thiamin	Yes	Yes	Yes.
Riboflavin	Yes	Yes	Yes.
Niacin	Yes	Yes	Yes.
Vitamin B6	Yes	Yes	Yes.
Folate	Yes	Yes	Yes.
Vitamin B12	Yes	Yes	Yes.
Biotin	Yes	Yes	Yes.*
Pantothenic acid	Yes	Yes	Yes.
Choline			Yes.*
Inositol			Yes.*

TABLE 1—SUMMARY OF REGULATORY REFERENCES FOR VITAMINS AND MINERALS IN ORGANIC FOOD AND ORGANIC INFANT FORMULA—Continued

Substance	Current reference for nutrient vitamins and minerals per 21 CFR 104.20(d)(3)	Proposed reference for vitamins and minerals	
		Food Essential per 21 CFR 101.9(c)(8) or 101.9(c)(9)	Infant formula Required per 21 CFR 107.100 or 107.10
Phosphorus	Yes	Yes	Yes.
Magnesium	Yes	Yes	Yes.
Zinc	Yes	Yes	Yes.
Iodine	Yes	Yes	Yes.
Copper	Yes	Yes	Yes.
Sodium			Yes.
Potassium	Yes	Yes	Yes.
Selenium		Yes	Yes.
Manganese		Yes	Yes.
Chromium		Yes	
Molybdenum		Yes	
Chloride		Yes	Yes.

* Required only for non-milk based infant formulas.

Table 2 shows examples, but is not an exhaustive list, of ingredients which are used in organic products and would be prohibited from use under this action. This table also indicates whether a petition to add the substance to the National List has been submitted to the National Organic Standards Board.

TABLE 2—EXAMPLES OF AFFECTED INGREDIENTS IN ORGANIC PRODUCTS

Ingredient	Petition submitted to NOSB
Docosahexanoic Acid (DHA) algal oil	Yes.
Arachidonic Acid (ARA) single-cell oil	Yes.
Taurine (separate petitions for infant formula and pet food)	Yes.
Inositol	Yes.
Choline (two separate petitions for infant formula and infant food, and all other foods)	Yes.
Ascorbyl Palmitate	Yes.
Beta-carotene *	Yes.
L-carnitine	Submitted to NOP and under revision by petitioner.
Lycopene	Yes.
Nucleotides	Yes.
Lutein	Submitted to NOP and under revision by petitioner.
L-Methionine	Yes.

* The beta-carotene petition is for the synthetic form. Beta-carotene extract color is currently listed in section 205.606 as a nonorganically produced agricultural ingredient allowed in products labeled ''organic'' when an organic version is not commercially available.

III. Related Documents

Three notices were published announcing meetings of the NOSB and its planned deliberations on recommendations involving Sunset 2012 substances including nutrient vitamins and minerals. The notices were published in the **Federal Register** as follows: (1) March 17, 2010 (75 FR 12723); (2) September 20, 2010 (75 FR 57194); and (3) March 4, 2011 (76 FR 12013).

On March 26, 2010, the NOP published an Advance Notice of Proposed Rulemaking (75 FR 14500) to make the public aware that the allowance for synthetic nutrient vitamins and minerals, among other substances, will expire for use in organic handling, if not reviewed by the NOSB and renewed by the Secretary.

IV. Statutory and Regulatory Authority

The OFPA, as amended [7 U.S.C. 6501–6522], authorizes the Secretary to make amendments to the National List based on proposed amendments developed by the NOSB. Section 6518(k) and 6518(n) of OFPA authorize the NOSB to develop proposed amendments to the National List for submission to the Secretary and establish a petition process by which persons may petition the NOSB for the purpose of having a substances evaluated for inclusion on or deletion from the National List. The current petition process (72 FR 2167, January 18, 2007) can be accessed through the NOP Web site at: *http://www.ams.usda.gov/nop*. The Sunset Provision in section 6517(e) of the OFPA provides that no exemption or prohibition on the National List will remain valid after 5 years unless the exemption or prohibition has been reviewed and the Secretary renews the listing.

A. Executive Order 12866 and Executive Order 13563

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated an ''economically significant regulatory action'' under

section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

AMS is specifically seeking comments on the actual economic impacts of this action on the industry, including any expected mitigation factors that the industry may use to comply with the proposed action. We are most interested in refining the upper limit estimates referenced in the Regulatory Impact Analysis to specify the actual costs and benefits of this proposal. The costs and benefits are summarized in Table 3, below, and described in detail in this section. Comments on the proportion of sales for different sectors of the organic market (i.e. infant formula, baby food, fluid milk, breakfast cereals, and pet food) that will be impacted by this action would be pertinent.

TABLE 3—SUMMARY OF COSTS AND BENEFITS

Costs (range)	Benefits
$500 million–$4.2 billion	Establishes a clear, finite list of essential and required vitamins and mineral for use in organic food and infant formula.
	Facilitates the use of essential or required vitamins and minerals in organic food and infant formula.
The upper limit is the upper limit for sales of product categories that would be impacted by this action.	Fosters certainty in determining whether a specific ingredient can be used in an organic product.
	Facilitates enforcement of organic product composition standards.

Need for the Rule

The National List within the NOP regulations provides for the use of ''Nutrient vitamins and minerals, in accordance with 21 CFR 104.20, Nutritional Quality Guidelines For Foods,'' under 7 CFR 205.605(b). The reference to 21 CFR 104.20 is to FDA's fortification policy. In 2006, the NOP asserted that the scope of the FDA fortification policy provided for the use of a broader range of nutrients than those explicitly listed in those guidelines. The NOP interpretation affected an allowance for ''accessory nutrients,'' permitting the use of substances which are Generally Recognized As Safe (GRAS), but are neither vitamin or mineral, nor required by regulation. In 2010, the NOP consulted with FDA to clarify the parameters of the fortification policy and confirmed that the NOP interpretation did not align with the intent of the FDA guidelines. The FDA clarified that the fortification policy provides for the use of only essential vitamins and minerals (under 21 CFR 101.9(c)(8)(iv)) plus potassium and protein (21 CFR 101.9 (c)(9)), which is a more prescribed set of substances than permitted under the NOP interpretation of that policy.[15]

The NOP's interpretation facilitated the potential for the use of a wide spectrum of substances, having unique properties and functions. It incorrectly suggested to organic producers and handlers that a number of unspecified substances could qualify for use under the nutrient vitamins and minerals exemption and be added to organic products. It also suggests that the exemption provides an allowance for an open list of substances, potentially encompassing dozens of nutrients, the complete inventory of which is difficult for the NOP and consumers to discern. As a result, the existing exemption remains vulnerable to misinterpretation, which undermines the ability of the certifying agents and NOP to make consistent decisions about the use of nutrient substances in organic products. It is imperative to eliminate uncertainty and enable organic operations to make confident business decisions and to demonstrate effective oversight of organic production to maintain consumer trust.

Furthermore, the NOP thought that the fortification policy provided for the addition of nutrients to infant formula. The FDA indicated that this was inaccurate as the nutrient specifications for infant formula, provided at 21 CFR part 107, are separate from the fortification policy at 21 CFR 104.20. Absent this reference to 21 CFR part 107, the NOP regulations do not correctly provide for the formulation of infant formula that would meet FDA requirements. Therefore, this action is also necessary to incorporate the correct FDA citation with respect to the addition of required vitamins and minerals to organic infant formula.

The NOP and NOSB have provided four opportunities for public comment on this issue and the total number of comments submitted exceeds two thousand.[16] Public comment surged in response to the NOSB April 2011 meeting notice which announced that the NOSB Handling Committee would present a recommendation for nutrient vitamins and minerals. The NOSB Handling Committee recommended that the listing be renewed as follows: ''§ 205.605(b): Nutrient Vitamins and Minerals, restricted to materials required or allowed by law for the purpose of enrichment, supplementation or fortification of foods including infant formula, and materials the use of which is supported by the FDA or the Institute of Medicine of the National Academies.'' As described earlier, the majority of comments opposed the NOSB Handling Committee's proposal. Some expressed the preference for a complete prohibition on nutrient additives in organic products, while others advocated for the review of each individual nonagricultural substance for inclusion on the National List. This proposed rule is responsive to numerous public comments advocating for a clearly defined exemption.

Regulatory Objective

The primary purpose of this proposed action is to clarify and accurately provide for the parameters of the exemption for the use of nutrient vitamins and minerals in organic

[15] Correspondence from Office of Nutrition, Labeling and Dietary Supplements, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration to National Organic Program, U.S. Department of Agriculture. April 14, 2011. Available at *www.ams.usda.gov/nop.*

[16] An Advanced Notice of Proposed Rulemaking (ANPR) announcing the pending sunset of the nutrient vitamins and minerals listing was published in the **Federal Register** on March 26, 2010 (75 FR 14500) and requested comments. Three NOSB meeting notices also provided opportunity for public comment on this issue. The notices were published in the **Federal Register** as follows: March 17, 2010 (75 FR 12723), September 20, 2010 (75 FR 57194), and March 4, 2011 (76 FR 12013).

products in accordance with FDA regulatory provisions. The FDA fortification policy is referenced in the current listing to establish parameters for what nutrient vitamins and minerals may be used in organic handling. The proposed rule would correct the regulatory references to clearly delineate that only essential vitamins and minerals are permitted in organic foods under this exemption. This proposed action would correctly identify FDA required vitamins and minerals that may be added to organic infant formula. Other synthetic substances that are not specifically referenced by the proposed exemption would be prohibited from use in organic products unless there is an explicit National List exemption for such use.

This action would clarify for certifying agents, organic operations, consumers, and other interested persons which vitamins and minerals are permitted for use in organic products. It would also ensure that other nutrient substances are subject to the thorough and public review that is accorded all substances petitioned for addition to the National List.

Alternatives Considered

Alternatives to this proposed rulemaking that were considered include: (1) Renew the existing listing for nutrient vitamins and minerals; or (2) in lieu of a rule, issue guidance stating NOP's intent to interpret the current listing for nutrient vitamins and minerals as proposed in this action.

The first alternative considered was to renew the listing for ''Nutrient vitamins and minerals, in accordance with 21 CFR 104.20, Nutritional Quality Guidelines For Foods,'' without change would extend the National List exemption for the use of nutrient vitamins and minerals until the next sunset date of October 21, 2017. The current listing contains an inaccurate reference to FDA's fortification policy for food, the scope of which the NOP erroneously interpreted to be broader than intended by the original NOSB 1995 recommendations on the nutrient fortification of foods. This option would leave in place a regulatory provision that remains vulnerable to misinterpretation regarding what substances are permitted in organic products. Failing to take action could perpetuate business decisions that are based on an inaccurate reading of the fortification policy resulting in the use of various ingredients which are not explicitly provided for on the National List. The continued use of synthetic ingredients which do not appear on the National List, whether by renewing the current listing or grandfathering in the affected substances, is not a plausible option because this is inconsistent with the Organic Foods Production Act of 1990. The statute prohibits the Secretary from allowing synthetics substances in the National List other than those proposed by the National Organic Standards Board (7 U.S.C. 6517(d)(2)). Only the NOSB has the authority to recommend adding a synthetic substance to the National List and grandfathering in these substances would bypass the NOSB review process which is mandated in order for such substances to be used in organic handling. In addition, pursuing this alternative runs counter to the prevailing public support, as expressed through comments to the Sunset 2012 ANPR and the NOSB meeting notices, for NOP action to precisely clarify the permitted nutrient vitamins and minerals in organic handling.

Furthermore, the NOP is now cognizant that the FDA fortification policy does not cover infant formula. Infant formula is comprised of agricultural products and falls within the scope of NOP certification. It has developed into a robust organic product category and recorded a 2.3 percent growth in sales in 2010.[17] The NOP believes that it is imperative to confirm the eligibility of infant formula for organic certification by accurately providing for the use of vitamins and minerals to meet FDA requirements for infant formula. Therefore, the NOP did not believe this alternative was appropriate.

The second alternative considered would result in the issuance of guidance, rather than a regulatory change. Upon receiving FDA clarification on the fortification policy, the NOP considered conveying which nutrient vitamins and minerals would be permitted in organic processed food through guidance. However, upon further review, the NOP believes that this route would not adequately address the issue of correcting the incomplete and inaccurate FDA references in the regulatory annotations as well as the resultant overly broad NOP interpretations. The NOP believes that correcting the inaccuracies in the regulation is preferable and the appropriate course of action to bring certainty to the vitamins and mineral area of organic food production.

Baseline

Based on USDA data from the Economic Research Service (ERS), the total acreage of certified organic land grew from 1.8 million acres in 2000 to 4.8 million acres in 2008, of which approximately 2.2 million acres was pasture and rangeland.[18] The number of certified organic producers in the U.S. nearly doubled in that time period rising from approximately 7,000 in 2000 to nearly 13,000 in 2008.[19]

The increasing production capacity for organic agricultural products parallels growth trends in sales of organic products. Since implementation of the NOP, the organic industry has experienced consecutive years of growth demonstrated by increasing sales to consumers. In 2010, U.S. retail sales of organic food and beverages totaled $26.7 billion.[20] The pace of double-digit sales growth that persisted from 2002–2008 has dipped, but the 7.7 percent growth recorded from 2009–2010, marked an increase from the previous year. The top grossing organic food categories in terms of sales for 2010 are fruits and vegetables (39.7%), dairy (14.6%) and packaged/prepared foods, which includes baby formula and baby food (13.9%). Sales of dry breakfast goods, which includes cereals, grew 3.0% in the year 2010, exceeding $1 million. Organic frozen prepared foods account for the highest sales within the packaged/prepared foods category. According to the Organic Trade Association's Organic Industry Survey 2011, the most often cited barrier to growth in this category, is rising commodity costs.[21]

The year-to-year increases in sales of organic foods coincides with changes in marketing, as organic products have become increasingly available through conventional marketing channels, in addition to natural product retailers. In 2006, nearly equal shares of organic products were sold in conventional venues and natural product outlets and by 2010, the balance shifted to mass-market groceries which sold 54 percent of organic food.[22] There is also evidence of a shift in consumer purchasing patterns, expanding beyond the traditional consumption of organic fruits and vegetables to other organic products, such as dairy, beverages, packaged foods, and breads and

[17] Organic Trade Association, 2011. *2011 Organic Industry Survey*. Brattleboro, VT.

[18] U.S. Department of Agriculture, Economic Research Service. 2008. *U.S. Organic Agriculture, 1992–2008,* data set, available at *www.ers.usda.gov/data/organicERS*.

[19] *Ibid.*

[20] Organic Trade Association, 2011.

[21] *Ibid.*

[22] Dimitri, Carolyn, and Lydia Oberholtzer. *Marketing U.S. Organic Foods: Recent Trends From Farms to Consumers*. Economic Information Bulletin No. 58. U.S. Dept. of Agriculture, Economic Research Service. September 2009.

grains.[23] After fruits and vegetables, the organic food categories which experienced the greatest sales growth in 2010 were dairy, condiments, snack foods, and breads and grains.[24]

This Regulatory Impact Analysis (RIA) focuses on five product categories in which the NOP believes the impact of the proposed rule will be concentrated: infant formula; baby food; milk; breakfast cereal; and pet food. The NOP used the Organic Trade Association's April 2011 White Paper on the Fortification of Organic Foods to identify several product categories that would likely be impacted by regulatory action with respect to the listing for nutrient vitamins and minerals.[25] A fuller description of current fortification in these products is provided in the discussion of costs below. Table 4 provides an overview of the recent market statistics for these product categories.

TABLE 4—2010 ORGANIC SALES AND GROWTH RATES FOR SELECT ORGANIC PRODUCTS

Category	2010 Sales	2010 Growth
Infant Formula [a]	$695 million	1.9%
Baby Food [a]	296 million	2.3%
Milk/cream [a]	2.14 billion	10.2%
Dry Breakfast Goods [a]*	1 billion	3.0%
Pet Food [b]	116 million	18.4%
Total	4.2 billion	

[a] Figures obtained from Organic Trade Association, ''2011 Organic Industry Survey''.
[b] Figures obtained from Sundale Research, 2011. ''State of the Industry: Natural and Organic Pet Food in the U.S., 4th Edition'', Bayshore, N.Y.
* For the purposes of this proposed action, the NOP used ''dry breakfast goods'' as a synonym for breakfast cereal.

Benefits to the Proposed Rule

The current regulatory provisions present challenges to certifying agents and organic operations in complying with and enforcing regulations regarding the use of nutrient vitamins and minerals. In April 2010, the NOP informed certifying agents of the corrected interpretation of the FDA fortification policy and the impact on the exemption for nutrient vitamins and minerals.[26] This proposed correction provides certifying agents with a more clear direction for future certification decisions concerning vitamins, minerals and other substances in organic product formulations. Further, this proposed action also would ensure that exemptions for the use of vitamins, minerals and other nutrients are subject to NOSB evaluation in accordance with the criteria established in 7 U.S.C. 6518(m). Finally, the proposed amendment also would correct the regulation with regard to infant formula under the NOP. Organic infant formula has been marketed since the implementation of the NOP regulations in 2002. The current NOP regulations, however, do not specifically provide a correct reference for the use of vitamins and minerals required by FDA in organic infant formula.

This proposed action would facilitate the use of any additional vitamins or minerals that the FDA may determine to be required or essential for human nutrition. The FDA regulatory citations, 21 CFR 101.9, 107.100 and 107.10, that would replace the current reference to 21 CFR 104.20, contain lists of vitamins and minerals for food and infant formula. The lists within these sections are updated as warranted to incorporate additional nutrients which FDA has designated as essential or required. For example, since the implementation of the fortification policy in 1980, the FDA has modified the list of essential nutrients to include vitamin K, manganese, selenium, chromium, molybdenum and chloride. By including the proposed references to 21 CFR 101.9, 107.100 and 107.10, any essential or required vitamins and minerals which are added to those regulations would also be allowed for use in organic food and infant formula. During the sunset review of the proposed listing for vitamins and minerals, the NOSB would review any updates to the vitamins and minerals listed in those sections.

Costs of Proposed Rule

This action would impact any certified organic operation which adds substances to organic products that are not essential vitamins and minerals for human nutrition, as enumerated in 21 CFR 101.9, or required vitamins and minerals for infant formula, as enumerated in 21 CFR 107.100 and 107.10. Based on information provided in the OTA White Paper on the Fortification of Organic Foods, the impacts would be concentrated within 5 categories of organic products discussed herein in which nutrient supplementation has been more prevalent: infant formula, baby food, milk, breakfast cereal, and pet food. In aggregate, we anticipate that the upper limit for sales of the organic product categories affected by this proposed action would be $4.1 billion. We emphasize that this is an estimated upper limit that reflects the total sales of the 5 categories of organic products. Because AMS believes that only a subset of these sales would be impacted by this action, the actual costs of mitigation to comply with the regulatory change are expected to be significantly lower than the total sales value. However, the AMS does not have sufficient data to estimate these costs and is therefore seeking public comment to further analyze the costs of the final rule. OTA provided a conservative estimate that the economic impact of fortified organic product sales is in the range of $500 million annually. However, it is not possible for AMS to evaluate the accuracy of this estimate due to the use of proprietary data and lack of information of what assumptions were used to determine this economic impact.

[23] *Ibid.*

[24] Organic Trade Association, 2011.

[25] Organic Trade Association, 2011. *Fortification of Organic Foods, OTA Task Force White Paper.*

[26] NOP, 2010, Action Memorandum for the Chairman of the National Organic Standards Board, Scope of Nutrient Vitamins and Minerals in Organic Food, available at *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5084068&acct=nosb.*

The following discussion explains the basis for AMS's estimate by product category, any underlying assumptions and potential mitigating factors.

Infant Formula. Organic handlers which are not in compliance with this proposed rule would be required to reformulate or relabel their products or exit the organic infant formula market.[27] According to measurements by the USDA Economic Research Service, 99.5 percent of organic infant formula contained DHA/ARA as of the first quarter in 2009.[28] The NOP assumes that the percentage of organic infant formula containing DHA algal oil and ARA single-cell oil has not fluctuated and for the purposes of this analysis, that essentially all organic infant formula contains DHA algal oil and ARA single-cell oil. The OTA reported that sales of organic infant formula were $689 million in 2010. Therefore, we anticipate that the entire $689 million organic infant formula industry would be impacted by this proposed action.

AMS believes the estimate impact of this proposed action on organic infant formula may be inflated for several reasons. At the April 2011 NOSB meeting, the NOP informed the organic industry that the prior NOP interpretation of the listing for nutrient vitamins and minerals was incorrect. The NOP indicated its intent to implement the fortification policy, referenced in the codified listing as 21 CFR 104.20, in accordance with FDA's interpretation of that policy . The NOP also advised that other substances could be petitioned for addition to the National List. Since that announcement, six petitions have been submitted for substances that are added to organic infant formula, but are not required by FDA. As of the publication of this proposed action, petitions for the following substances have been submitted to the NOP: DHA algal oil, ARA single-cell oil, taurine, choline, inositol, ascorbyl palmitate, beta-carotene, L-carnitine, lycopene, nucleotides, lutein and L-methionine. The NOSB will consider the petitions for DHA algal oil and ARA single-cell oil at the November 29–December 2, 2011 meeting.

AMS proposes a two year implementation phase before this rule becomes effective. AMS believes that the NOP's advance disclosure of its intent with respect to nutrient vitamins and minerals, in combination with a proposed two year implementation phase, will minimize disruption to the organic industry. The length of time is calculated to provide time for the NOSB to conclude its recommendations on petitions for substances impacted by this rule and to complete any rulemaking necessitated by NOSB recommendations to add substances to the National List. AMS recognizes that a petition submission does not guarantee a favorable outcome for the petitioner, but the process provides ample opportunity for stakeholders to inform the NOSB and the public of the reasons to support a National List exemption. AMS does not have data to more accurately estimate the potential costs of this action on the organic infant formula market and seeks public comments to refine the estimated impact.

Baby Food. The OTA 2011 Organic Industry Survey states that sales of organic baby food totaled $296 million in 2010. Organic baby food represents a small, but growing share of the baby food market. According to ERS data, sales of organic baby food accounted for approximately 12.2% of the supermarket sales of all baby food in the first quarter of 2009.[29] The NOP has observed a range of organic baby food products in various forms, including canned, dry and frozen and has observed the addition of DHA algal oil, choline bitartrate and unidentified sources of DHA and ARA to a few organic baby food products. Within each type, there are organic baby food products which would comply with this proposed action with respect to the addition of vitamins and minerals.[30] However, AMS does not have data to determine the proportion of baby food which would be affected by this proposed action and seeks comments to refine this estimate.

AMS believes that the two year implementation phase would minimize any disruption to the organic baby food industry. During this time, the impacted stakeholders have the opportunity to submit petitions to add substances to the National List that would be excluded from use in organic products. The implementation period also provides affected entities with time to consider reformulating products to comply with the proposed action.

Fluid Milk and Dairy Products. The total sales of organic milk and cream sales for 2010 was reported to be $2.1 billion. [31] ERS has calculated that 2.8 percent of the universal product codes (UPCs) for organic milk are codes for milk products which contain DHA.[32] However, due to variability in the retail price and sales volume for different types of organic milk products, the percentage of UPCs cannot be extrapolated to the percentage of sales that would be affected by this proposed action. AMS does not have data to quantify the percent of organic milk sales that are attributed to milk with DHA and ARA. However, even assuming that the $2.1 billion in sales could be the upper limit cost of this proposed action, AMS believes that this significantly over estimates the impact of this proposed rule. As indicated by the organic milk UPC data from ERS, the organic fluid milk market includes many products which do not contain added DHA. In addition, not all organic milk products are available in a version containing added DHA. AMS is aware that retail prices for organic milk with added DHA are typically higher than prices for organic milk without added DHA.[33] However, we lack numerical data to describe the economic impact of DHA in the organic milk market, particularly in comparison to other growth drivers such as a narrowing gap between organic and nonorganic milk prices.[34] AMS seeks public comments to

[27] According to NOP research, it appears that there are 5 major entities which offer organic infant formula exclusively with DHA algal oil and ARA single-cell oil. Three of the five also market nonorganic infant formulas; therefore, the impact of this action to each entity could be buffered by sustained business related to the nonorganic formulas. Data from ERS which shows that organic infant formulas have a minimal share, 0.8 percent, of the total infant formula market supports the prediction of a more limited impact on the entities which offer both organic and nonorganic formulas.

[28] ERS determined this number from Neilsen Scantrack data which contains weekly sales information from a sample of over 14,000 U.S. grocery stores.

[29] ERS determined the market share for organic baby food by using data from Neilsen Scantrack, which contains weekly sales information from a sample of over 14,000 U.S. grocery stores.

[30] For the purpose of labeling, the amount/levels of essential vitamins and minerals in 21 CFR 101.9(c)(8)(iv) are for 4 years and above. Foods that are represented for use for infants (up to 12 months of age), children 1 to 4 years of age, pregnant or lactating women, must use the Recommended Daily Intakes that are specified for the intended group.

[31] This estimate does not include potential impacts to organic yogurt. The NOP believes such impact would be minimal as there appears to be very few organic yogurt products on the market which contain DHA algal oil. Organic yogurt which contains DHA derived from fish oil is available; this is acceptable for use in organic production currently and under this proposed action.

[32] ERS determined this estimate by utilizing data from the Gladson UPC (Universal Product Code) database which contains 160,000 food UPC codes and detailed nutritional information. The 2.8% estimate is based on 2010 data. ERS searched that database for organic milk products containing one or more of the 11 nutrients specified by the NOP: docosaheaxaenoic acid (DHA), arachidonic acid (ARA), taurine, inositol, choline, ascorbyl palmitate, beta-carotene, carnitine, lycopene, nucleotides, and lutein.

[33] NOP analysis of milk prices revealed that organic whole milk with added DHA generally ranged from 30 to 80 cents higher than prices for organic whole milk.

[34] The Organic Trade Association 2011 Organic Industry Survey attributes the strong growth of the

refine the estimated impact of this proposed action upon organic fluid milk and dairy products.

AMS believes there are additional factors that would mitigate the projected $2.1 billion impact on the organic dairy sector. One factor is the existence of an alternative form of DHA, derived from fish oil, which is acceptable for use in organic milk and dairy products. Section 205.606 of the National List provides for the use of two components of fish oil, specifically, the omega-3 fatty acids, DHA and eicosapentaenoic (EPA). This estimated cost to the organic dairy sector does not include organic milk which contains DHA from fish oil because the addition of those substances would not be prohibited by this proposed action. While AMS is aware that DHA algal oil has a unique market appeal as a vegetarian source of DHA, there is an allowed source of omega-3 fatty acids to enable operations affected by proposed action to maintain a stake in the niche market for omega-3 organic milk.

AMS' estimate assumes that all sales attributed to organic milk with DHA could be potentially affected in the organic milk sector. However, the NOP believes, but does not have affirmative data that some portion of DHA organic milk purchases would transfer to other organic milk products without algal DHA, mitigating the potential loss of organic milk sales to the organic dairy sector. Further, AMS expects that some portion of consumers is chiefly motivated by the perceived benefits of organic certification and would keep their purchases within the organic dairy sector. Such consumer behavior would decrease the estimated sales impact of this proposed action.

In addition, AMS is proposing a two year implementation period. As of the publication of this proposed rule, petitions have been submitted to the NOSB for the addition of DHA algal oil and ARA single-cell oil. During the implementation period, affected entities will have the opportunity to present their public comments to the NOSB regarding DHA algal oil and ARA single-cell oil. If the NOSB approves a recommendation to add these substances to the National List, the length of the implementation period is expected to be adequate to cover the necessary rulemaking and minimize disruption to the industry.

Breakfast Cereal. The sales for organic breakfast cereal totaled approximately $1 billion in 2010.[35] ERS has calculated that 2.8 percent of the UPCs for organic breakfast cereals are codes for cereals which contain a substance that would be prohibited from use in organic products as a result of this proposed rule.[36] AMS lacks data on market share of breakfast cereals with any of the identified substances (referred to ''added nutrients'' for the remainder of this section). While assuming an upper limit of $1 billion for the estimated impact of this proposed action on organic breakfast cereal, the agency considers that this figure is significantly inflated. As evidenced by the ERS data, not all organic breakfast cereals contain an added nutrient(s) that would be affected by this proposed action.

AMS' estimate assumes that all sales attributed to organic breakfast cereal with added nutrients would potentially be affected in the organic breads and grains sector. However, the NOP believes, but does not have affirmative data, that some portion of these purchases would transfer to other organic breakfast cereals, mitigating any potential adverse impact. Further, AMS believes it is accurate to infer that some portion of purchases are motivated by perceived benefits of the organic certification rather than the nutrients added, which would decrease the estimated sales impact.

In addition, the proposed two year implementation period is expected to be sufficient for NOSB consideration of petitions for added nutrients received as of publication of this rule and any rulemaking necessitated by NOSB recommendations on these petitions. As AMS does not have data to more accurately estimate the potential costs of this action on the organic breakfast cereal market, the agency is seeking public comments to refine the estimated impact.

Pet Food. AMS estimates that the potential impact of this proposed action on the organic pet food industry to be $42 million. According to a Sundale Research report, the 2010 sales for organic pet food totaled $116 million, 36 percent of which was attributed to sales of cat food.[37] The estimated impact of $42 million is equivalent to the 2010 sales of organic cat food. AMS anticipates that all organic cat food would be impacted by this proposed action because cat food must contain the substance taurine. Taurine is an organic acid which is essential for healthy heart function and prevention of blindness in cats. The amount of taurine must meet the minimal requirement as established for cats by the National Research Council's Nutrient Requirements of Cats and Dogs (2006).[38] The National List does not contain a specific exemption for the use of taurine, nor does the FDA fortification policy provide for the use of this substance because the policy does not pertain to pet foods.

The $42 million in sales of organic cat food includes sales of cat treats. According to the Sundale Research data, sales of cat food treats accounted for 12.5 percent of 2010 sales, or $5.25 million. Pet treats, however, are exempt from including a nutritional adequacy statement and cat treats are not required to include taurine. Therefore, AMS expects that some portion of organic cat treats would not be affected by this proposed action. AMS does not have data on the percent of cat treats that do or do not contain taurine to further refine this estimate. Therefore, the estimate is based on an underlying assumption that all cat treats contain taurine.[39] Because AMS does not have data to more accurately estimate the potential costs for organic pet food, the agency is seeking public comments to refine the estimated impact.

AMS intends to address the overall use of nutrient vitamins and minerals in pet food through a separate rulemaking that would establish standards for organic pet food. A petition to add taurine to the National List for use in pet food was submitted to the NOP in September 2010. AMS believes that the NOSB review of the petition and the promulgation of organic pet food regulations will conclude within the implementation phase of this proposed action to mitigate disruption to the organic pet food industry.

In summary, AMS expects that potential impacts on sales of organic products in the aforementioned categories could be mitigated through several factors. The proposed two year implementation period is intended to

organic milk/cream category in 2010, to a narrower price gap between organic and nonorganic milk as a result of higher conventional commodity prices.

[35] Organic Trade Association, 2011. The 2011 Organic Industry Survey reported $1.049 billion in sales of ''dry breakfast goods'' for 2010.

[36] ERS determined this estimate by utilizing data from the Gladson UPC (Universal Product Code) database which contains 160,000 food UPC codes and detailed nutritional information. The 2.8% estimate is based on 2010 data. See footnote 19 for a list of the substances included in the search criteria.

[37] Sundale Research, 2011. *State of the Industry: Natural and Organic Pet Food in the U.S., 4th Edition,* Bayshore, N.Y.

[38] The FDA considers the nutrients listed in Tables 15–10, 15–12 and 15–14 to be essential nutrients for cats where a Minimal Requirement or Adequate Intake value has been established in order for the product to be labeled, ''complete and balanced.''

[39] Although taurine is not a required nutrient for dog food, some organic dog foods may contain taurine. However, AMS believes the amount of organic dog food products affected would be minimal.

provide time for NOSB to consider petitions for substances that are affected by this action and for AMS to conclude rulemaking to add substances to the National List. The implementation phase would also provide affected entities time to explore reformulation or relabeling of affected products. AMS is seeking comments on the length of the proposed compliance date. Further, AMS believes that if some products are discontinued as a result of this proposed rule, some consumers will purchase, as an alternative, an organic product within the same category rather than a nonorganic product.

B. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. This proposed rule is not intended to have a retroactive effect.

States and local jurisdictions are preempted under the OFPA from creating programs of accreditation for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in section 2115(b) of the OFPA (7 U.S.C. 6514(b)). States are also preempted under sections 2104 through 2108 of the OFPA (7 U.S.C. 6503 through 6507) from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of the OFPA.

Pursuant to section 2108(b)(2) of the OFPA (7 U.S.C. 6507(b)(2)), a State organic certification program may contain additional requirements for the production and handling of organically produced agricultural products that are produced in the State and for the certification of organic farm and handling operations located within the State under certain circumstances. Such additional requirements must: (a) Further the purposes of the OFPA, (b) not be inconsistent with the OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

Pursuant to section 2120(f) of the OFPA (7 U.S.C. 6519(f)), this proposed rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601–624), the Poultry Products Inspection Act (21 U.S.C. 451–471), or the Egg Products Inspection Act (21 U.S.C. 1031–1056), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301–392), nor the authority of the Administrator of EPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136–137).

Section 2121 of the OFPA (7 U.S.C. 6520) provides for the Secretary to establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that adversely affects such person or is inconsistent with the organic certification program established under this title. The OFPA also provides that the U.S. District Court for the district in which a person is located has jurisdiction to review the Secretary's decision.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis if the rulemaking is not expected to have a significant impact on a substantial number of small entities.

Pursuant to the requirements set forth in the RFA, AMS performed an economic impact analysis on small entities in the final rule published in the **Federal Register** on December 21, 2000 (65 FR 80548). AMS has also considered the economic impact of this proposed action on small entities. Small entities include producers engaged in crop and animal production and handlers that process organic products or develop, market and sell organic products. AMS has determined that this proposed rule will not have a significant impact on a substantial number of small entities.

AMS notes that several requirements to complete the RFA overlap with the Regulatory Impact Analysis (RIA) and the Paperwork Reduction Act (PRA). For example, the RFA requires a description of the reasons why action by the agency is being considered and an analysis of the proposed rule's costs to small entities. The RIA describes the need for this proposed rule and provides an analysis of the benefits and costs of a proposed rule. Further, the RFA requires a description of the projected reporting and recordkeeping requirements of the proposed rule. The PRA provides an estimate of the reporting and recordkeeping (information collection) requirements of a proposed rule. In order to avoid duplication, we combine some analyses as allowed in section 605(b) of the RFA. The RIA also provides summary information on the size of the organic industry, production capacity and sales by category of organic products with a focus upon those products likely to be affected by this rulemaking. It also provides information on potential costs to handlers that have chosen to obtain organic certification. The RIA and PRA should be referred to for more detail.

This proposed rule would affect handlers involved in manufacturing and/or marketing certain types of organic processed products including, infant formula, baby food, fluid milk, breakfast cereal and pet food. Organic handlers engage in the selling, processing and/or packaging of agricultural products. Some handlers have processing facilities, while others develop formulations and labels and market products, but contract with a co-packer for the manufacturing. For the purposes of this analysis, AMS considered co-packers and marketing operations to be a single handling entity due to the inter-dependent relationship for producing organic products. The Small Business Administration (SBA) (13 CFR 121.201), defines small food manufacturers by the number of employees. SBA identifies various subsectors of the food manufacturing industry by the North American Industry Classification System (Subsector 311—Food Manufacturing). Entities which manufacture the organic products listed above, with the exception of breakfast cereal, would qualify as a small business if the number of employees does not exceed 500. The small business threshold for breakfast cereal manufacturing is a maximum of 1,000 employees.[40]

Based on USDA data, the total acreage of certified organic land grew from 1.8 million acres in 2000 to 4.8 million acres in 2008, of which approximately 2.2 million acres was pasture and

[40] AMS determined that the following North American Industry Classification System categories, from among those listed in the SBA regulations, are relevant to the manufacturing activity that could be affected by this proposed rulemaking: Dry, condensed and evaporated dairy product manufacturing (organic infant formula); Miscellaneous food manufacturing (organic baby food); Fluid milk manufacturing, Breakfast cereal manufacturing, Dog and cat food manufacturing.

rangeland.[41] The number of certified organic producers in the U.S. nearly doubled in that time period rising from approximately seven thousand in 2000 to nearly 13,000 in 2008.[42] ERS estimated the number of certified handling operations was 3,225 in 2007.[43]

Legal Basis and Objective of Proposal

In 1990, Congress enacted the Organic Foods Production Act of 1990, as amended (OFPA) (7 U.S.C. 6501–6522). The OFPA requires all agricultural products labeled as ''organically produced'' to originate from farms or handling operations certified by a State or private agency that has been accredited by USDA. The OFPA authorizes the Secretary of Agriculture to establish a National List of approved and prohibited substances that meet criteria enumerated in the Act. The exemptions for the use of synthetic substances must be based on proposed amendments of the National Organic Standards Board.

This proposed rule would correct the National List exemption for nutrient vitamins and minerals by replacing the reference to FDA's fortification policy (21 CFR 104.20) with references to the FDA regulatory provisions that clearly convey what substances are permitted for fortification of food (21 CFR 101.9). This proposed action would also add references for the FDA regulations for the required vitamins and minerals for infant formula (21 CFR 107.100 and 107.10) because the fortification policy does not address the addition of nutrients to infant formula.

Applicability of Proposal

The population that would be directly impacted by this proposed rule is a subset of certified organic handlers of infant formula, baby food, milk, breakfast cereal and pet food. While we do not have precise data, AMS expects the number of organic handlers that could be affected by this proposed action to be substantially less than the entire population of organic handlers which ERS estimated to be 3,225 in 2007. In general, AMS has ascertained that the use of substances that could no longer be added to organic products as a result of this proposed action tends to be concentrated among certain national brands. AMS believes that few of these handlers would be considered small entities under the criteria established by the SBA, as discussed below. AMS is seeking comments on the adequacy of the estimated impact of the proposed action on small entities.

Costs of Proposed Rule—Direct Costs to Handlers

Infant Formula. The Organic Trade Association reported that sales of organic infant formula were $689 million for the year 2010.[44] According to measurements by ERS, as of the first quarter in 2009, 99.5 percent of organic infant formula contained added DHA and ARA.[45] AMS believes that approximately five brands of organic infant formula produced by two manufacturers dominate the U.S. organic infant formula market. Organic infant formula sold under five of these brands contains ingredients, such as, DHA algal oil, ARA single-cell oil, taurine and inositol, which would not be permitted by this proposed action. AMS is confident that two of these entities would not be considered a small business under the SBA criteria.

Baby Food. The Organic Trade Association disclosed that sales of organic baby food totaled $296 million in 2010.[46] According to ERS data, sales of organic baby food accounted for approximately 12.2 percent of the supermarket sales of all baby food in the first quarter of 2009.[47] The baby food category includes products in a variety of forms and ingredients for different age groups ranging from cereals, pureed fruits, vegetables, grains and proteins, snacks and yogurt. According to the database of NOP certified operations, the number of U.S. operations handling organic baby food is less than 20.

AMS has observed DHA algal oil, choline bitartrate and unidentified sources of DHA and ARA as ingredients in a few organic baby food products. These ingredients would not be permitted in organic formula by this proposed action unless and until there are specific exemptions on the National List for these substances. In general, however, prevalent use of substances that would be prohibited as a result of this proposed action in organic baby food has not been detected. AMS believes that approximately three entities, which distribute products nationally, would be impacted by this proposed rule. AMS is confident that one of these entities would not meet the criteria for a small business. Based upon the extent of the distribution of products and the marketing channels, AMS is uncertain whether either of the two other entities would qualify as a small business. The products that would be affected by this proposed rule, however, represent only a portion of the organic baby food offerings of these entities. Therefore, AMS believes the impact of this rule, if any, on small entities in the organic baby food category would be negligible. AMS welcomes comments to further inform its determination.

Fluid Milk. The total sales of organic milk and cream for the year 2010 were reported to be $2.1 billion.[48] ERS has calculated that 2.8 percent of the universal product codes for organic milk are codes for milk products which contain DHA.[49] According to ERS, as of May 2007, two suppliers were providing about 75 percent of the nationally branded organic milk.[50] That balance has likely shifted due to the growth in private label brands, many of which are supplied by one organic milk handler. Based on ERS analysis, AMS believes that three organic dairy handlers supply most of the organic milk in the U.S. market (two supplying national brands and one supplying various private label milk). AMS is aware of other organic dairy handlers which distribute on a smaller scale and that the dairy handlers may collect milk from hundreds of organic producers.

One of the national organic milk brands offers several organic milk varieties with added DHA algal oil.

[41] U.S. Department of Agriculture, Economic Research Service. 2008. *U.S. Organic Agriculture, 1992–2008,* data set available at *http://www.ers.usda.gov/data/organicERS.*

[42] *Ibid.*

[43] U.S. Department of Agriculture, Economic Research Service, 2009. Data Sets: Procurement and Contracting by Organic Handlers: Documentation available at *http://www.ers.usda.gov/Data/OrganicHandlers/Documentation.htm.*

[44] Organic Trade Association, 2011. *2011 Organic Industry Survey.* Brattleboro, VT.

[45] ERS determined this number from Neilsen Scantrack data which contains weekly sales information from a sample of over 14,000 U.S. grocery stores.

[46] Organic Trade Association, 2011. *2011 Organic Industry Survey.*

[47] ERS determined the market share for organic baby food by using Neilsen Scantrack data, which contains weekly sales information from a sample of over 14,000 U.S. grocery stores.

[48] Organic Trade Association, 2011. *2011 Organic Industry Survey.* This estimate does not include potential impacts to organic yogurt. The NOP believes such impact would be minimal as there appears to be very few organic yogurt products on the market which contain DHA algal oil or other substances that would not be allowed per this proposed action. Organic yogurt which contains DHA or omega-3 fatty acids derived from fish oil is available; this is acceptable for use in organic production currently and would continue to remain compliant under this proposed action.

[49] ERS determined this estimate by utilizing data from the Gladson UPC (Universal Product Code) database which contains 160,000 food UPC codes and detailed nutritional information. The 2.8% estimate is based on 2010 data. ERS searched that database for organic milk products containing one or more of the 11 nutrients specified by the NOP: docosaheaxaenoic acid (DHA), arachidonic acid (ARA), taurine, inositol, choline, ascorbyl palmitate, beta-carotene, carnitine, lycopene, nucleotides, and lutein.

[50] Dimitri, Carolyn, and Venezia, Kathryn M. *Retail and Consumer Aspects of the Organic Milk Market/LDP–M–155–01.* U.S. Department of Agriculture, Economic Research Service, May 2007.

There is at least one other organic milk brand which contains DHA algal oil, but which is not distributed on a national scale. Both of these entities would be impacted by the proposed action because DHA algal oil would not be allowed in organic milk unless and until there is a specific exemption on the National List for this substance. AMS believes that one of these companies, which is part of a multinational corporation, would not qualify as a small business as defined by the SBA for fluid milk manufacturing. AMS expects that this action could impact some small milk handlers which offer organic milk with DHA algal oil. However, the Agency concludes that this proposed action would not have a significant impact on these entities as organic milk brands have diversified organic dairy offerings and do not produce or market organic milk with DHA exclusively. The diversification in the product line could help to offset any costs impacts of reformulating or discontinuing some products within a brand. Furthermore, there are alternative sources of DHA from fish oil, which are allowed as ingredients in organic products per section § 205.606 of the National List, and would be available to organic handlers that want to remain in or enter the DHA/omega-3 organic milk market niche.

Breakfast cereal. The sales for organic breakfast cereal totaled approximately $1 billion in 2010.[51] ERS has calculated that 2.8 percent of the universal product codes for organic breakfast cereals are codes for cereals which contain a substance that would be prohibited from use in organic products as a result of this proposed rule.[52] AMS has not identified which organic cereals, other than those marketed for babies, contain substances which would be prohibited from use in organic products as a result of this proposed action. The projected impacts to organic baby food are described above and in the Regulatory Impact Analysis. AMS believes that this proposed rule would not have a significant impact on a substantial number of small breakfast cereal manufacturers for several reasons. Due to the numerous varieties of organic breakfast cereal on the market, the estimated 2.8 percent of universal product codes which would be impacted by this proposed action represents few products. Organic cereal brands typically offer a variety of cereals, improving the likelihood that not all formulations would be adversely affected by this proposed action. AMS welcomes comments to further inform our consideration of the impacts of this proposed rule upon the organic breakfast cereal market.

Pet Food. According to a report by Sundale Research, the 2010 sales for organic pet food totaled $116 million, growing approximately 18 percent over the previous year. AMS believes that this action would adversely impact organic cat food, which accounts for 36 percent of the organic pet food market.[53] Organic cat food must contain the substance taurine, an organic acid which is essential for healthy heart function and prevention of blindness in cats. The amount of taurine must meet the minimal requirement as established for cats by the National Research Council's *Nutrient Requirements of Cats and Dogs* (2006). The National List does not contain a specific exemption for the use of taurine, nor does the FDA fortification policy provide for the use of this substance because the policy does not pertain to pet foods.

AMS has observed that pet food companies which market organic pet foods also offer natural pet food products. AMS is not aware of any pet food companies that exclusively manufacture organic pet foods and believes that the product and market diversification within individual entities to include pet treats, organic dog food and natural pet foods, respectively, provides insulation from the impacts of this proposed action. Furthermore, AMS intends to address the use of nutrient vitamins and minerals in pet food through a separate rulemaking that would establish standards for organic pet food. A petition to add taurine to the National List for use in pet food was submitted to the NOP in September 2010. AMS believes that the NOSB review of any petitions and the promulgation of organic pet food regulations will conclude within the implementation phase of this proposed action to mitigate disruption to the organic pet food industry.

Indirect Costs to Organic Producers

OTA's April 2011 White Paper on the Fortification of Organic Foods includes an estimate of the sales of organic commodities used as ingredients in fortified organic products, which could potentially be impacted by regulatory action to restrict substances used for supplementation in foodstuffs.[54] OTA calculated the estimated farm gate sales as $11 million dollars based on a ratio of 1:4:8, for the variables, farm-gate sales, retail sales and total size of the industry, respectively. The OTA White Paper also identifies the range of commodities which supply impacted organic categories. The organic commodity supply stream includes meats and poultry, grains, tree fruit, vegetables, nuts, fluid milk and milk powder, and soy.

Small agricultural producers are defined by the Small Business Administration (SBA) (12 CFR 121.201) as those having receipts of less than $750,000. The majority of organic ingredient producers whose agricultural products are diverted to organic infant formula, baby food, milk, breakfast cereal and pet food would likely qualify as small agricultural producers. While we do not have precise data, AMS expects the number of producers of organic ingredients that could be affected by this proposed action to be substantially less than the entire population of organic producers which ERS estimated to be nearly 13,000 in 2008. This proposed rule is not expected to have an impact on a substantial number of small agricultural producers. According to ERS, the demand for organic products has historically exceeded the supply of organic ingredients. In 2004, ERS conducted a survey of organic handlers and found that 13% experienced critical shortages for one of their organic products and concluded that 38% were importing raw, organic materials produced outside the U.S.[55] That discrepancy persists according to the OTA ''2011 Organic Industry Survey'' which reported difficulty, ranging from major to occasional, with the supply of organic raw materials. This report also indicated that 62 percent of companies surveyed in 2010 intended to increase their use of organic ingredients over the next three years. Given the projections for continued expansion of the organic sector, AMS expects that there will be opportunities for producers to divert organic agricultural products to other purchasers to buffer the impact of any disruption to the manufacture of certain

[51] Organic Trade Association, 2011. The 2011 Organic Industry Survey reported $1.049 billion in sales of ''dry breakfast goods'' for 2010.

[52] ERS determined this estimate by utilizing data from the Gladson UPC (Universal Product Code) database which contains 160,000 food UPC codes and detailed nutritional information. The 2.8% estimate is based on 2010 data. See footnote 19 for a list of the substances included in the search criteria.

[53] Sundale Research, 2011. *State of the Industry: Natural and Organic Pet Food in the U.S., 4th Edition,* Bayshore, N.Y.

[54] This is available on the Organic Trade Association Web site, *http://www.ota.com.*

[55] Greene, Catherine, Carolyn Dimitri, Biing-Hwan Lin, William McBride, Lydia Oberholtzer, and Travis Smith. *Emerging Issues in the U.S. Organic Industry.* EIB–55. U.S. Dept. of Agriculture, Economic Research Service. June 2009.

processed organic products as a result of this proposed action.

Organic meat and poultry producers that supply the organic pet food industry, however, could face more formidable challenges. The organic pet food market facilitates carcass utilization for organic meat and poultry parts which do not enter human food chain. Poultry producers, in particular, would be prone to experience a greater impact because chicken comprises most of the protein in organic pet food. AMS does not know the number of organic poultry producers that supply the organic pet food sector.

Conclusion

This proposed rule would correct the National List exemption for nutrient vitamins and minerals by replacing the reference to FDA's fortification policy (21 CFR 104.20) with references to the FDA regulatory provisions that clearly convey what substances are permitted for fortification of food (21 CFR 101.9). This proposed action would also add references for the FDA regulations for the required vitamins and minerals for infant formula (21 CFR 107.100 and 107.10) because the fortification policy does not address the addition of nutrients to infant formula. Overall, this proposed action would narrow the number of potential substances for addition to organic foods in comparison of NOP's current interpretation of the exemption for nutrient vitamins and minerals. This proposed rule would establish a finite list of essential and required vitamins and minerals for food and infant formula. Sustained consumer demand is essential to the economic stability of organic producers and handlers, and this proposed action would bridge consumer expectations and the innovation of organic operations.

The proposed revisions to the exemption for nutrient vitamins and minerals could entail costs for certified operations which are manufacturing and/or marketing organic products that contain substances which fall outside the revised parameters for nutrient vitamins and minerals. The costs associated with this proposed rule could include reformulating products to remove nonagricultural ingredients that are clearly prohibited by the National List and relabeling products to reflect formulation changes. The types of substances that would be restricted by this proposed action are nutrients which are not added to have a functional effect on the product, but for nutrient content and may be associated with a nutritional claim. Therefore, the removal of these ingredients from product formulations is not expected to necessitate procurement of substitute ingredients. Due to the diversity of products and ingredients that may be affected by this rule, AMS is not attempting to quantify the range of possible of reformulation and relabeling to individual operations.

AMS believes that this proposed rule would facilitate increased consumer confidence in organic products. This proposed action would clearly delineate the requirements for adding vitamins and minerals to organic foods and infant formula, and foster the consistent implementation and enforcement of these requirements. Furthermore, this proposed action does not preclude the potential for substances excluded from use to be considered for future use in organic products, but it would require that use be predicated upon the review and recommendation of the NOSB. That process will ultimately bolster the certainty of organic handlers about the regulatory status of ingredients, deter consumer skepticism and improve the competitiveness of the market for organic foods.

D. Paperwork Reduction Act

No additional collection or recordkeeping requirements are imposed on the public by this proposed rule. Accordingly, OMB clearance is not required by section 350(h) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, Chapter 35, or OMB's implementing regulation at 5 CFR part 1320.

AMS is committed to complying with the E-Government Act to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

E. Civil Rights Impact Analysis

AMS has reviewed this proposed rule in accordance with the Department Regulation 4300–4, Civil Rights Impact Analysis (CRIA), to address any major civil rights impacts the rule might have on minorities, women, and persons with disabilities. After a careful review of the rule's intent and provisions, AMS has determined that this rule would only impact the organic practices of handlers and that this rule has no potential for affecting handlers in protected groups differently than the general population of handlers. This rulemaking was initiated to clarify a regulatory requirement and enable consistent implementation and enforcement.

Protected individuals have the same opportunity to participate in the NOP as non-protected individuals. The NOP regulations prohibit discrimination by certifying agents. Specifically, § 205.501(d) of the current regulations for accreditation of certifying agents provides that ''No private or governmental entity accredited as a certifying agent under this subpart shall exclude from participation in or deny the benefits of the NOP to any person due to discrimination because of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status.'' Paragraph 205.501(a)(2) requires ''certifying agents to demonstrate the ability to fully comply with the requirements for accreditation set forth in this subpart'' including the prohibition on discrimination. The granting of accreditation to certifying agents under § 205.506 requires the review of information submitted by the certifying agent and an on-site review of the certifying agent's operation. Further, if certification is denied, § 205.405(d) requires that the certifying agent notify the applicant of their right to file an appeal to the AMS Administrator in accordance with § 205.681. These regulations provide protections against discrimination, thereby permitting all handlers, regardless of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status, who voluntarily choose to adhere to the proposed rule and qualify, to be certified as meeting NOP requirements by an accredited certifying agent. This proposed rule in no way changes any of these protections against discrimination.

List of Subjects in 7 CFR Part 205.

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205, is proposed to be amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

2. Section 205.605(b) is amended by:

A. Removing the listing for ''Nutrient vitamins and minerals''.

B. Adding a listing for ''Vitamins and minerals''.

The addition reads as follows:

§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food groups(s)).''

* * * * *

(b) * * *

* * * * *

Vitamins and minerals. For food—vitamins and minerals identified as essential in 21 CFR 101.9. For infant formula—vitamins and minerals as required by 21 CFR 107.100 or § 107.10.

* * * * *

Dated: January 6, 2012.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–09–0074; NOP–09–01PR]

RIN 0581–AC96

National Organic Program (NOP); Sunset Review (2012)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would address recommendations submitted to the Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB) on April 29, 2010, October 28, 2010, and April 29, 2011. These recommendations pertain to the 2012 Sunset Review of substances on the U.S. Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List). Consistent with the NOSB recommendations, the proposed rule would continue, without change, the exemptions (use) and prohibitions for multiple listings on the National List for 5 years after their respective sunset dates. This proposed rule would amend the exemptions (use) or prohibition for 7 substances and remove the exemption for 3 substances on the National List.

DATES: Comments must be received by February 13, 2012.

ADDRESSES: Interested persons may submit written comments on this proposed rule using the following addresses:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Toni Strother, Agricultural Marketing Specialist, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave. SW., Room 2646–So., Ag Stop 0268, Washington, DC 20250.

Instructions: All submissions received must include the docket number AMS–NOP–09–0074; NOP–09–01, and/or Regulatory Information Number (RIN) 0581–AC96 for this rulemaking. Commenters should identify the topic and section number of this proposed rule to which the comment refers. You should clearly indicate your position to continue, discontinue or further restrict the allowance of any substances as identified in this proposed rule and the reasons for your position. You should include relevant information and data to support your position (*e.g.,* scientific, environmental, manufacturing, industry impact information, *etc.*). You should also supply information on alternative substances or alternative management practices, where applicable, that support a change from the current exemption for the substance. Only the supporting material relevant to your position will be considered. All comments received will be posted without change to *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Comments submitted in response to this proposed rule will also be available for viewing in person at USDA–AMS, National Organic Program, 1400 Independence Ave. SW., Room 2646–South Building, Washington, DC, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday, (except official Federal holidays). Persons wanting to visit the USDA South Building to view comments received in response to this proposed rule are requested to make an appointment in advance by calling (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Melissa Bailey, Ph.D., Director, Standards Division, Telephone: (202) 720–3252; Fax: (202) 205–7808.

SUPPLEMENTARY INFORMATION:

I. Background

The Organic Foods Production Act of 1990 (OFPA), 7 U.S.C. 6501–6522, authorizes the establishment of the National List. The National List identifies synthetic substances that are exempted (allowed) in organic production and nonsynthetic substances that are prohibited in organic crop and livestock production. The National List also identifies nonagricultural nonsynthetic, nonagricultural synthetic and nonorganic agricultural substances that may be used in organic handling. The exemptions and prohibitions granted under the OFPA are required to be reviewed every 5 years by the National Organic Standards Board (NOSB). The Secretary of Agriculture has authority under the OFPA to renew such exemptions and prohibitions. If the substances are not reviewed by the NOSB within 5 years of their inclusion on the National List and addressed by the Secretary, then their authorized use or prohibition expires under OFPA's sunset provision.

In response to the sunset provisions in the OFPA, the Secretary published an Advanced Notice of Proposed Rulemaking (ANPR) in the **Federal Register** on March 26, 2010 (75 FR 14500), announcing the review of exempted and prohibited substances codified at the National List of the National Organic Program (NOP) regulations and set to expire in 2012. A list of these substances is provided as Table 1 in the Overview of Proposed Actions section.[1] The ANPR explained that, unless reviewed and recommended by the NOSB, a synthetic substance exempted for use on the National List in 2007 and currently allowed for use in organic production would no longer be allowed for use after its respective sunset date in 2012; a nonsynthetic substance prohibited from use on the National List in 2007 and currently prohibited from use in organic production would be allowed after its respective sunset date in 2012; and a synthetic or nonsynthetic substance exempted for use on the National List in 2007 and currently allowed for use in organic handling would be prohibited after its respective sunset date in 2012. The ANPR announced the upcoming review of these substances by the NOSB and the NOP's intent to complete the sunset process based upon recommendations by the NOSB for all listings added to the National List in 2007. The ANPR notified the public that this rulemaking would be completed by the earliest respective sunset date, June 27, 2012. The ANPR also requested public comment on the continued use or prohibition of these substances. The public comment period lasted 60 days.

The NOP received approximately 100 comments in response to the ANPR. Comments were received from consumers, organic crop producers, academia, accredited certifying agents, trade associations, retailers and organic

[1] Table 1 shows a simplified listing for each substance; use categories and any restrictive annotations are not included in this overview.

associations. Most comments voiced support for all substances considered under this sunset review. Some of these commenters provided specific information in support of one or more substances that they promoted, represented, or relied upon in organic production or handling. A few commenters recommended allowing a small number of substances to sunset. Some commenters also expressed the need for the clarification or further restrictions for a limited number of substances on the National List. These commenters recommended amending the listing or adding annotations as a potential approach for providing such clarifications. Some comments opposed the use of any synthetics in organic production, but did not provide documented support against individual substances for this position.

The NOSB reviewed the comments received on the ANPR and developed recommendations regarding the continued use and prohibition of the substances under review. The NOSB received additional public comments concerning the pending sunset of these substances in response to three **Federal Register** notices announcing meetings of the NOSB and its planned deliberations for sunset 2012 recommendations. The notices were published in the **Federal Register** as follows: March 17, 2010 (75 FR 12723), September 20, 2010 (75 FR 57194), and March 4, 2011 (76 FR 12013). The NOSB received further written and oral testimony at all three of these public business meetings which occurred in Woodland, CA on April 26–29, 2010, in Madison, WI on October 25–28, 2010, and in Seattle, WA on April 26–29, 2011. The written comments can be retrieved via *http://www.regulations.gov* by searching for the document ID numbers: AMS–NOP–10–0021 (May 2010 meeting); AMS–NOP–10–0068 (October 2010 meeting); and AMS–NOP–11–05 (April 2011 meeting). The oral comments were recorded in the meeting transcripts available on the NOP Web site, *http://www.ams.usda.gov/nop.*

Prior to the October 2010 meeting, NOSB policy specified that recommendations for substances under sunset review were limited to two options: (1) Renewal, or continuation of each exemption or prohibition as codified in the NOP regulations; or (2) removal, allowing the exemption or prohibition to expire. In October 2010, the NOSB changed their sunset policy to allow a third option for issuing a recommendation.[2] The third option enables the Board to add or change annotations (restrictions) on National List substances under sunset review. This change in policy ensures that the Board can address new use patterns and scientific information on substances allowed or prohibited in organic production. The policy limits such annotation changes under sunset to those which clarify an existing annotation or make the annotation more restrictive. The new policy does not authorize an annotation change during the sunset review process that would result in expanded use of an exempted substance.

As a result of their meetings in April and October 2010, and April 2011, the NOSB recommended that the Secretary: (1) Renew, as currently codified in the NOP regulations, multiple listings for substances under the 2012 sunset review, (2) remove the exemption for three substances from the National List, and (3) amend the annotations for eight substances (seven exemptions and one prohibition) on the National List. For some annotation amendments, the NOSB recommendation on the amendment occurred concurrent to, rather than after, the institution of the new NOSB sunset policy in October 2010. As a way to streamline the regulatory process and expedite implementation of the NOSB recommendations, the NOP proposes to address all of the annotation changes for substances under sunset review as part of this proposed rule.

The NOSB also recommended renewal of the listing for nutrient vitamins and minerals, as codified, at their April 2011 meeting. During the NOSB's deliberations on this substance, the NOP consulted with the Food and Drug Administration (FDA) about the regulatory citation that is currently incorporated by reference into the annotation for nutrient vitamins and minerals.[3] As a result of this consultation, the NOP determined that current listing for nutrient vitamins and minerals was the result of a drafting error and that a correction to this listing is necessary to align the listing with the NOSB's 1995 original recommendation. Therefore, the NOP plans to address the sunset review for nutrient vitamins and minerals and correct the drafting error through a separate proposed rule.

USDA is engaging in this proposed rulemaking to reflect the recommendations of the NOSB from April 2010, October 2010 and April 2011, for all listings for substances under sunset review, with the exception of nutrient vitamins and minerals and sodium nitrate which will be dealt with in separate actions. This rulemaking will solicit public comment on all renewals, removals, and annotation changes that are proposed.

Under the authority of the OFPA, as amended, (7 U.S.C. 6501–6522), the National List can be amended by the Secretary based on recommendations developed by the NOSB. Since established, the NOP has published multiple amendments to the National List: October 31, 2003 (68 FR 61987), November 3, 2003 (68 FR 62215), October 21, 2005 (70 FR 61217), June 7, 2006 (71 FR 32803), September 11, 2006 (71 FR 53299), June, 27, 2007 (72 FR 35137), October 16, 2007 (72 FR 58469), December 10, 2007 (72 FR 69569), December 12, 2007 (72 FR 70479), September 18, 2008 (73 FR 54057), October 9, 2008 (73 FR 59479), July 6, 2010 (75 FR 38693), August 24, 2010 (75 FR 51919), and December 13, 2010 (75 FR 77521). Additionally, proposed amendments to the National List were published on November 8, 2010 (75 FR 68505), May 5, 2011 (76 FR 25612) and on November 8, 2011 (76 FR 69141).

II. Overview of Proposed Actions

From April 26, 2010 through April 29, 2011, the NOSB reviewed the listings for exemptions and prohibitions that are authorized on the National List and set to expire on June 27, 2012, October 21, 2012, December 11, 2012, and December 13, 2012. Using the evaluation criteria specified in the ANPR for sunset review, the NOSB reviewed these exemptions and prohibitions for continued authorization in organic agricultural production and handling. As a result of the NOSB's review of public comment and meeting deliberations, the NOSB recommended that the Secretary renew most of the exemptions and prohibitions, with any restrictive annotations, as codified. In addition, the NOSB recommended that 3 exemptions not be renewed. The NOSB also recommended that exemptions or prohibition for 7 substances continue with amendment to their restrictive annotations. The Secretary is addressing these NOSB recommendations for sunset 2012 listings through this proposed rule as shown in Table 1.

With respect to the criteria used to make recommendations regarding the continued authorization of exemptions and prohibitions, the NOSB's decisions are based on public comments and applicable supporting evidence that

[2] October 28, 2010, NOSB Recommendation on Sunset Review Process. Available at NOP Web site: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5088004&acct=nosb.*

[3] April 14, 2011, Letter from FDA to NOP on the FDA Fortification Policy at 21 CFR 104.20. Available at NOP Web site: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5090415.*

express a continued need for the use or prohibition of the substance(s). In voting to change its sunset policy to allow for amendments to annotations during sunset review, the NOSB agreed that this policy would enable the Board to consider, as part of their decision making, changes in use patterns and scientific information for substances under review. Consistent with decisions on continued authorizations of exemptions and prohibitions, such annotation changes can only be made if public comment and applicable evidence demonstrate that the substance, with any restrictive annotations, continues to meet the overall criteria for listing under the OFPA.

Concerning criteria used to make recommendations regarding the discontinuation of an authorized exempted synthetic substance, the NOSB's decision is based on public comments and applicable supporting evidence that demonstrates the currently authorized exempted substance is: (a) Harmful to human health or the environment; (b) no longer necessary for organic production due to the availability of alternative wholly nonsynthetic substitute products or practices; or (c) inconsistent with organic farming and handlingpractices.

TABLE 1—OVERVIEW OF PROPOSED ACTIONS FOR SUNSET 2012 [4]

National list section	Substance	NOSB Meeting	New sunset date	Proposed action
§ 205.601 Synthetic substances allowed for use in organic crop production.	Alcohols (Ethanol; Isopropanol).	April 2011	October 21, 2017	Renew.
		April 2010 *	October 21, 2017	Renew.
	Ammonium carbonate	April 2010 *	October 21, 2017	Renew.
	Aquatic plant extracts (other than hydrolyzed).			
	Boric acid	April 2010 *	October 21, 2017	Renew.
	Chlorine materials (Calcium hypochlorite; chlorine dioxide; sodium hypochlorite).	April 2011	October 21, 2017	Amend: Chlorine materials—For pre-harvest use, residual chlorine levels in the water in direct crop contact or as water from cleaning irrigation systems applied to soil must not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act, except that chlorine products may be used in edible sprout production according to EPA label directions.
	Coppers, fixed (Copper hydroxide; copper oxide; copper oxychloride).	April 2011	October 21, 2017	Renew.
	Copper sulfate	April 2011	October 21, 2017	Renew.
	Elemental sulfur (3 uses)	April 2010 *	October 21, 2017	Renew.
	EPA List 4—Inerts of Minimal Concern.	October 2010	October 21, 2017	Renew.
	Ethylene gas	April 2010 *	October 21, 2017	Renew.
	Herbicides, soap-based	April 2010 *	October 21, 2017	Renew.
	Humic acids	April 2010 *	October 21, 2017	Renew.
	Hydrated lime	April 2011	October 21, 2017	Renew.
	Hydrogen peroxide (2 uses).	April 2010 *	October 21, 2017	Renew.
	Lignin sulfonate on § 205.601(j)(4).	April 2011	October 21, 2017	Amend: Lignin sulfonate-chelating agent, dust suppressant.
	Lignin sulfonate on § 205.601(l)(1).	April 2011	October 21, 2017	Renew.
	Lime sulfur (2 uses)	April 2010 *	October 21, 2017	Renew.
	Liquid fish products	April 2010 *	October 21, 2017	Renew.
	Magnesium sulfate	April 2011	October 21, 2017	Renew.
	Micronutrients (Soluble boron products; Sulfates, carbonates, oxides, or silicates of zinc, copper, iron, manganese, molybdenum, selenium, and cobalt).	April 2010 *	October 21, 2017	Renew.

[4] Table 1 shows a simplified listing for each substance; use categories and any restrictive annotations are not included in this overview.

TABLE 1—OVERVIEW OF PROPOSED ACTIONS FOR SUNSET 2012 [4]—Continued

National list section	Substance	NOSB Meeting	New sunset date	Proposed action
	Mulches (Newspapers or other recycled paper, without glossy or colored inks; Plastic mulch and covers).	April 2011	October 21, 2017	Renew.
	Newspapers or other recycled paper, without glossy or colored inks.	April 2011	October 21, 2017	Renew.
	Oils, horticultural-narrow range oils as dormant, suffocating, and summer oils (2 uses).	April 2010*	October 21, 2017	Renew.
	Pheromones	April 2011	October 21, 2017	Renew.
	Potassium bicarbonate	April 2010*	October 21, 2017	Renew.
	Soap-based algicide/demossers.	April 2010*	October 21, 2017	Renew.
	Soaps, ammonium	April 2010*	October 21, 2017	Renew.
	Soaps, insecticidal	April 2010*	October 21, 2017	Renew.
	Sodium silicate	April 2011	October 21, 2017	Renew.
	Sticky traps/barriers	April 2010*	October 21, 2017	Renew.
	Streptomycin	April 2011		Amend: Streptomycin, for fire blight control in apples and pears only until October 21, 2014.
	Sucrose octanoate esters (CAS #s—42922–74–7; 58064–47–4).	April 2010*	December 11, 2017	Renew.
	Sulfur dioxide	April 2011		Remove.
	Vitamin B_1, C, and E	April 2010*	October 21, 2017	Renew.
	Vitamin D_3	April 2011	October 21, 2017	Renew.
§ 205.602 Nonsynthetic substances prohibited for use in organic crop production.	Arsenic	April 2010*	October 21, 2017	Renew.
	Ash for manure burning	April 2010*	October 21, 2017	Renew.
	Lead salts	April 2010*	October 21, 2017	Renew.
	Potassium chloride	April 2010*	October 21, 2017	Renew.
	Sodium fluoaluminate (mined).			
	Sodium nitrate	April 2011	October 21, 2017	Addressed in separate rulemaking action
	Strychnine	April 2010*	October 21, 2017	Renew.
	Tobacco dust (nicotine sulfate).	April 2010*	October 21, 2017	Renew.
§ 205.603 Synthetic substances allowed for use in organic livestock production.	Alcohols (Ethanol; Isopropanol).	October 2010	October 21, 2017	Renew.
	Aspirin	April 2010*	October 21, 2017	Renew.
	Atropine (CAS #–51–55–8	April 2010*	December 13, 2017	Renew.
	Biologics—Vaccines	April 2010*	October 21, 2017	Renew.
	Butorphanol (CAS #–42408–82–2).	April 2010*	December 13, 2017	Renew.
	Chlorhexidine	April 2010*	October 21, 2017	Renew.
	Chlorine materials (Calcium hypochlorite; chlorine dioxide; sodium hypochlorite).	October 2010	October 21, 2017	Renew.
	Copper sulfate	October 2010	October 21, 2017	Renew.
	Electrolytes	April 2010*	October 21, 2017	Renew.
	EPA List 4—Inerts of Minimal Concern.	October 2010	October 21, 2017	Renew.
	Excipients	April 2010*	December 13, 2017	Renew.
	Flunixin (CAS #–38677–85–9).	April 2010*	December 13, 2017	Renew.
	Furosemide	October 2010	December 13, 2017	Renew.
	Glucose	October 2010	October 21, 2017	Renew.
	Glycerine	October 2010	October 21, 2017	Renew.
	Hydrogen peroxide	April 2010*	October 21, 2017	Renew.
	Iodine (2 uses)	April 2010*	October 21, 2017	Renew.
	Ivermectin	April 2010*	October 21, 2017	Renew.
	Lidocaine	April 2010*	October 21, 2017	Renew.
	Lime, hydrated	April 2010*	October 21, 2017	Renew.
	Magnesium hydroxide (CAS #–1309–42–8).	April 2010*	December 13, 2017	Renew.
	Magnesium sulfate	October 2010	October 21, 2017	Renew.

TABLE 1—OVERVIEW OF PROPOSED ACTIONS FOR SUNSET 2012 [4]—Continued

National list section	Substance	NOSB Meeting	New sunset date	Proposed action
	Mineral oil	April 2010 *	October 21, 2017	Renew.
	Oxytocin	April 2010 *	October 21, 2017	Renew.
	Peroxyacetic/peracetic acid (CAS #–79–21–0).	April 2010 *	December 13, 2017	Renew.
	Phosphoric acid	April 2010 *	October 21, 2017	Renew.
	Poloxalene (CAS #–9003–11–6).	April 2010 *	December 13, 2017	Renew.
	Procaine	April 2010 *	October 21, 2017	Renew.
	Sucrose octanoate esters (CAS #s—42922–74–7; 58064–47–4).	April 2010 *	December 11, 2017	Renew.
	Tolazoline (CAS #–59–98–3).	April 2010 *	December 13, 2017	Renew.
	Trace minerals	April 2010 *	October 21, 2017	Renew.
	Vitamins	April 2010 *	October 21, 2017	Renew.
	Xylazine (CAS #–7361–61–7).	April 2010 *	December 13, 2017	Renew.
§ 205.604 Nonsynthetic substances prohibited for use in organic livestock production.	Strychnine	April 2010 *	October 21, 2017	Renew.
§ 205.605(a) Nonsynthetic, nonagricultural substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s))''.	Acids (Alginic; citric; lactic)	April 2010 *	October 21, 2017	Renew.
	Bentonite	April 2010 *	October 21, 2017	Renew.
	Calcium carbonate	April 2010 *	October 21, 2017	Renew.
	Calcium chloride	April 2010 *	October 21, 2017	Renew.
	Dairy cultures	April 2010 *	October 21, 2017	Renew.
	diatomaceous earth	April 2010 *	October 21, 2017	Renew.
	Enzymes	April 2010 *	October 21, 2017	Renew.
	Flavors	October 2010	October 21, 2017	Renew.
	Kaolin	April 2010 *	October 21, 2017	Renew.
	Magnesium sulfate	October 2010	October 21, 2017	Renew.
	Nitrogen	April 2010 *	October 21, 2017	Renew.
	Oxygen	April 2010 *	October 21, 2017	Renew.
	Perlite	April 2010 *	October 21, 2017	Renew.
	Potassium chloride	April 2010 *	October 21, 2017	Renew.
	Potassium iodide	April 2011	October 21, 2017	Renew.
	Sodium bicarbonate	April 2010 *	October 21, 2017	Renew.
	Sodium carbonate	April 2010 *	October 21, 2017	Renew.
	Waxes (Carnauba wax; Wood resin).	April 2010 *	October 21, 2017	Renew.
	Yeast (Autolysate; Bakers; Brewers; Nutritional; Smoked).	October 2010	October 21, 2017	Amend: Yeast—When used as food or a fermentation agent, yeast must be organic if its end use is for human consumption; non-organic yeast may be used when equivalent organic yeast is not commercially available. Growth on petrochemical substrate and sulfite waste liquor is prohibited. For smoked yeast, nonsynthetic smoke flavoring process must be documented.
§ 205.605(b) Synthetic, nonagricultural substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s))''.	Alginates	April 2010 *	October 21, 2017	Renew.
	Ammonium bicarbonate	April 2010 *	October 21, 2017	Renew.
	Ammonium carbonate	April 2010 *	October 21, 2017	Renew.
	Ascorbic Acid	April 2010 *	October 21, 2017	Renew.
	Calcium citrate	April 2010 *	October 21, 2017	Renew.
	Calcium hydroxide	April 2010 *	October 21, 2017	Renew.
	Calcium phosphates (monobasic; dibasic; tribasic).	April 2010 *	October 21, 2017	Renew.
	Carbon dioxide	April 2010 *	October 21, 2017	Renew.
	Chlorine materials (Calcium hypochlorite; chlorine dioxide; sodium hypochlorite).	October 2010	October 21, 2017	Renew.

TABLE 1—OVERVIEW OF PROPOSED ACTIONS FOR SUNSET 2012 [4]—Continued

National list section	Substance	NOSB Meeting	New sunset date	Proposed action
	Ethylene	April 2011	October 21, 2017	Renew.
	Ferrous sulfate	October 2010	October 21, 2017	Renew.
	Glycerides (mono; di)	April 2010*	October 21, 2017	Renew.
	Glycerin	April 2011	October 21, 2017	Renew.
	Hydrogen peroxide	April 2010*	October 21, 2017	Renew.
	Magnesium carbonate	April 2010*	October 21, 2017	Renew.
	Magnesium chloride	April 2010*	October 21, 2017	Renew.
	Magnesium stearate	April 2010*	October 21, 2017	Renew.
	Nutrient vitamins and minerals.	April 2011		Addressed in separate rulemaking action.
	Ozone	April 2010*	October 21, 2017	Renew.
	Pectin (low-methoxy)	October 2010		Remove; included in amended § 205.606 listing of Pectin (non-amidated forms only).
	Phosphoric acid	October 2010	October 21, 2017	Renew.
	Potassium acid tartrate	April 2010*	October 21, 2017	Renew.
	Potassium carbonate	April 2010*	October 21, 2017	Renew.
	Potassium citrate	April 2010*	October 21, 2017	Renew.
	Potassium hydroxide	April 2010*	October 21, 2017	Renew.
	Potassium iodide	April 2011		Remove.
	Potassium phosphate	April 2010*	October 21, 2017	Renew.
	Silicon dioxide	October 2010	October 21, 2017	Renew.
	Sodium citrate	October 2010	October 21, 2017	Renew.
	Sodium hydroxide	October 2010	October 21, 2017	Renew.
	Sodium phosphates	October 2010	October 21, 2017	Renew.
	Sulfur dioxide	October 2010	October 21, 2017	Renew.
	Tocopherols	April 2011	October 21, 2017	Renew.
	Xanthan gum	April 2010*	October 21, 2017	Renew.
§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as ''organic''.	Casings, from processed intestines.	April 2010*	June 27, 2017	Renew.
	Celery powder	April 2010*	June 27, 2017	Renew.
	Chia (*Salvia hispanica L.*)	April 2010*	June 27, 2017	Renew.
	Colors (Annatto extract color; Beet juice extract color; Beta-carotene extract color; Black currant juice color, Black/purple carrot juice color; Blueberry juice color; Carrot juice color; Cherry juice color; Chokeberry—Aronia juice color; Elderberry juice color; Grape juice color; Grape skin extract color; Paprika color; Pumpkin juice color; Purple potato juice color; Red cabbage extract color; Red radish extract color; Saffron extract color; Turmeric extract color). CAS numbers are provided in the Renewals with Amendment section..	October 2010	June 27, 2017	Amend: Colors derived from agricultural products—Must not be produced using synthetic solvents and carrier systems or any artificial preservative.
	Cornstarch (native)	October 2010	October 21, 2017	Renew.
	Dillweed oil (CAS #8006–75–5).	April 2010*	June 27, 2017	Renew.
	Fish oil (Fatty acid CAS #'s 10417–94–4 and 25167–62–8).	April 2010*	June 27, 2017	Renew.
	Fructooligosaccharides (CAS #308066–66–2).	October 2010	June 27, 2017	Renew.
	Galangal, frozen	April 2010*	June 27, 2017	Renew.
	Gelatin (CAS #9000–70–8)	April 2010*	June 27, 2017	Renew.
	Gums (Arabic; Guar; Locust bean; Carob bean).	April 2010*	October 21, 2017	Renew.
	Hops (*Humulus luplus*)	October 2010		Amend: Hops (*Humulus lupulus*) until January 1, 2013.

TABLE 1—OVERVIEW OF PROPOSED ACTIONS FOR SUNSET 2012 [4]—Continued

National list section	Substance	NOSB Meeting	New sunset date	Proposed action
	Inulin, oligofructose enriched (CAS #9005–80–5).	October 2010	June 27, 2017	Renew.
	Kelp	April 2010*	October 21, 2017	Renew.
	Konjac flour (CAS #37220–17–0).	April 2010*	June 27, 2017	Renew.
	Lemongrass, frozen	April 2010*	June 27, 2017	Renew.
	Orange shellac—unbleached (CAS #9000–59–3).	April 2010*	June 27, 2017	Renew.
	Pectin (high-methoxy)	October 2010	October 21, 2017	Amend: Pectin (non-amidated forms only).
	Peppers (chipotle chile)	April 2010*	June 27, 2017	Renew.
	Sweet potato starch	April 2010*	June 27, 2017	Renew.
	Turkish bay leaves	April 2010*	June 27, 2017	Renew.
	Wakame seaweed (*Undaria pinnatifida*).	April 2010*	June 27, 2017	Renew.
	Whey protein concentrate	October 2010	June 27, 2017	Renew.

*The NOSB originally recommended that these substances be relisted during their April 2010 meeting. Since public comments were still being accepted for these substances, the NOSB decided to reaffirm their recommendations on these substances at the October 2010 meeting after analyzing all public comments.

Renewals

After considering all public comments and supporting evidence, the NOSB determined that many listings for exempted and prohibited substances demonstrated a continued need for authorization in organic agricultural production and handling.

AMS has reviewed and accepts the NOSB recommendations for the continued exemption or prohibition of these listings. Accordingly, this proposed rule would renew the exemptions at § 205.601, along with any restrictive annotations, for the synthetic substances allowed for use in organic crop production as shown in Table 1.

This proposed rule would renew the prohibitions at § 205.602, along with any restrictive annotations, for the nonsynthetic substances prohibited for use in organic crop production as shown in Table 1.

This proposed rule would renew the exemptions at § 205.603, along with any restrictive annotations, for the synthetic substances allowed for use in organic livestock production as shown in Table 1.

This proposed rule would renew the prohibition at § 205.604, for the one nonsynthetic substance, strychnine, prohibited for use in organic livestock production as shown in Table 1.

This proposed rule would renew the exemptions at § 205.605, along with any restrictive annotations, for the nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s))'' as shown in Table 1.

This proposed rule would renew the exemptions at § 205.606, along with any restrictive annotations, for the nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as ''organic'' as shown in Table 1.

Nonrenewals

After considering all public comments and supporting evidence, the NOSB determined that three exemptions on the National List are no longer necessary for organic agricultural production and handling.

The Agricultural Marketing Service (AMS) has reviewed and accepts the NOSB recommendations for removal of three exemptions from the National List. Based upon recommendations from the NOSB concerning substances identified for review under this sunset review process, this proposed rule would amend the USDA's National List to remove the exemptions as shown in Table 1 for the following substances in organic agricultural production and handling:

Section 205.601 Synthetic Substances Allowed for Use in Organic Crop Production

The NOP regulation currently includes an exemption for sulfur dioxide as a rodenticide for use in crop production at § 205.601(g)(1) as follows:

Sulfur dioxide—underground rodent control only (smoke bombs).

The Environmental Protection Agency (EPA) registers smoke bomb products for underground rodent control with the active ingredients sulfur, charcoal carbon, and sodium nitrate or potassium nitrate (saltpeter). Smoke bombs are placed into rodent burrows and detonated. The detonation process produces sulfur dioxide smoke from the combustion of sulfur in the product. Sulfur dioxide is not listed as the active ingredient on labels for smoke bomb products. According to a Technical Report prepared for the NOSB on this use of sulfur dioxide, the EPA does not register products with the active ingredient listed as sulfur dioxide.[5]

The NOSB Crops Committee considered the finding that EPA does not register products with sulfur dioxide as an active ingredient on the label sufficient justification for the removal of the exemption for this substance. The NOP agrees that the substances included on the National List should be named in the same convention that is used by other regulatory agencies that have jurisdiction, such as the EPA, to avoid confusion.

A few public comments indicated that smoke bombs are an important part of rodent control for some organic crop operations. However, comments from one certifying agent indicated that they have not approved any smoke bomb products due to the presence of a detonator chemical in these products that contains a form of phosphorous that is not included on the National List. The NOSB expressed concern that exempting the effective substance, sulfur dioxide, on the National List instead of the EPA-recognized active

[5] Technical Report on Sulfur Dioxide. January 14, 2011. Available at the NOP Web site: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5089145&acct=nopgeninfo.*

ingredients can be confusing and may contribute to inconsistency among certifying agents.

The NOSB also discussed the variety of alternative methods and materials are used by organic growers for rodent control above and below ground. The NOSB noted that even though some organic growers may rely on smoke bombs in certain circumstances, other methods (such as trapping or baiting with approved materials from the National List) are available and could be used if sulfur dioxide is removed from the National List and smoke bombs became unavailable for use by organic growers. It was noted that the alternative use of Vitamin D_3 bait-type control is preferred when rodent control is needed in the close proximity to a building.

After considering all input from the public and any applicable evidence, the NOSB concluded that sulfur dioxide should not remain on the National List as an authorized substance for organic crop production, due to the acknowledgement that EPA registered smoke bomb products do not list sulfur dioxide as an active ingredient for smoke bombs, the availability of alternatives, and the lack of evidence that the substance is essential to organic production.

AMS accepts the NOSB's recommendation and proposes to remove the exemption for the use of sulfur dioxide. This proposed rule would amend § 205.601 of the National List by removing the exemption at paragraph (g)(1) and redesignating current paragraph (g)(2) as (g) to read as follows: (g) As rodenticides. Vitamin D_3.

This amendment would be effective on the substance's current sunset date, October 21, 2012.

Section 205.605 Nonagricultural (Nonorganic) Substances Allowed as Ingredients in or on Processed Products Labeled as ''Organic'' or Made With Organic (Specified Ingredients or Food Group(s))'' Only in Accordance With Any Restrictions Specified in This Section

The NOP regulation currently includes an exemption for pectin for use in organic handling at § 205.605(b) as follows:

Pectin (low-methoxy).

There are currently two exemptions for pectin on the National List. One exemption at § 205.605(b) is for low-methoxy pectin as a synthetic, nonagricultural (nonorganic) substance allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food groups(s)).'' The other exemption at § 205.606 is for high-methoxy pectin as a nonorganically produced agricultural product allowed as ingredients in or on processed products labeled as ''organic.'' High-methoxy pectin is only permitted in organic processed products when it is not commercially available in organic form.

Both high-methoxy and low-methoxy pectin are derived from apple pomace or citrus rinds by a similar extraction process. The degree of esterification determines their classification as a high- or low-methoxy pectin. Low-methoxy pectin is commonly produced by using acid solutions to remove methyl groups (CH_3) from the complex polysaccharide chain, and has a lower molecular weight than high-methoxy pectin. In a 1995 NOSB recommendation, the Board considered the longer extraction process and reduction in molecular weight to be a substantive chemical change, and therefore, classified low-methoxy pectin as synthetic. Some forms of low-methoxy pectin may be manufactured by treating with ammonia to de-methylate the pectin, replacing the methyl groups with an amine group, resulting in amidated pectin. The NOSB considered the amidated forms of pectin during their 1995 deliberations on this substance, but issued a final recommendation that low-methoxy pectin be allowed as a synthetic substance, without restricting use of the amidated forms. This recommendation resulted in a listing for low-methoxy pectin at § 205.605(b). In the same recommendation, the NOSB classified high-methoxy pectin as nonsynthetic. Both pectins are used in organic handling according to their different functions; low-methoxy pectin is used for low sugar jams and high-methoxy pectin is used in high sugar jams.

In developing their October 2010 recommendation for low-methoxy pectin, the NOSB Handling Committee considered public comments submitted by organic handlers. Organic handlers stated that there was no reason to use any form of amidated pectin in organic products, and that they supported the NOSB Handling Committee recommendation to reclassify non-amidated forms of low-methoxy pectin under § 205.606 as a nonsynthetic substance. During their October 2010 deliberations, the NOSB also considered amidated forms of low-methoxy pectin to be synthetic. Because the NOSB recommended non-amidated, low-methoxy pectin to be nonsynthetic and listed at § 205.606, the NOSB recommended the removal of the exemption for low-methoxy from § 205.605(b), a section limited to synthetic, nonagricultural substances allowed in processed products. By deleting the exemption, the use of amidated, low-methoxy pectin would be prohibited in organic handling.

During their deliberations, the NOSB clarified that all non-amidated forms of pectin, including low-methoxy, should continue to be allowed under an amended § 205.606 listing for pectin. The NOSB recommended a change in annotation to the current listing for pectin on § 205.606, such that all non-amidated pectins, regardless of the methoxy level, would be available for use in organic products under § 205.606, subject to commercial availability. This change in annotation is proposed as part of this proposed rule and is addressed in an upcoming section of the preamble.

There was no public comment opposing the NOSB's approach for addressing the use of pectin in organic handling. Organic jam makers indicated unanimous support of the Board's recommendation. The NOSB's recommendation was also supported by a petition from an organic jam maker who proposed adding non-amidated, low-methoxy pectin to § 205.606. The petitioner suggested that amidated forms of pectin are unnecessary in organic handling because non-amidated forms are currently available for use in jam and low sugar fruit spreads and preparations.

AMS accepts the NOSB's recommendation. This proposed rule would amend § 205.605(b) of the National List by removing the exemption for pectin (low-methoxy).

This amendment would be effective on the substance's current sunset date, October 21, 2012.

The NOP regulation currently includes an exemption for potassium iodide for use in organic handling at § 205.605(b) as follows:

Potassium iodide—for use only in agricultural products labeled ''made with organic (specified ingredients or food group(s)),'' prohibited in agricultural products labeled ''organic''.

Potassium iodide has two listings on § 205.605 for use in organic handling. It is listed as nonsynthetic on § 205.605(a) and it is listed as synthetic on § 205.605(b) of the National List. Under this sunset review, the NOSB voted unanimously to continue listing the substance on § 205.605(a), as naturally mined potassium iodide is used in some organic products. One commenter supported the continued exemption for potassium iodide at § 205.605(a) because the substance is also used as a sanitizer in some organic handling operations.

The listing as a synthetic on § 205.605(b) restricts its use to products in the ''made with organic (specified ingredients or food groups(s)),'' labeling category. The NOSB concluded that the synthetic listing for potassium iodide at § 205.605(b) is redundant and that its annotation is in conflict with the allowance for potassium iodide as a nutrient additive under a separate listing. Synthetic potassium iodide is the primary form of iodide allowed for fortification of food, and would be permitted under the listing for vitamins and minerals at § 205.605(b). Therefore, the NOSB determined that a separate listing for synthetic potassium iodide was not necessary.

AMS accepts the NOSB's recommendation. This proposed rule would amend § 205.605(b) of the National List by removing the exemption, along with its restrictive annotation, for potassium iodide.

This amendment would be effective on the substance's current sunset date, October 21, 2012.

Renewals With Amendment

After considering all public comments and supporting evidence, the NOSB identified seven exemptions and one prohibition for which renewal is critical to organic agricultural production and handling, but for which amendments are needed to the current listings for these substances to clarify or restrict their use.

AMS has reviewed and accepts the NOSB recommendations to renew, with amendment, seven exemptions and one prohibition on the National List. Based upon these recommendations from the NOSB, this proposed rule would amend the USDA's National List as shown in Table 1 for the following substances in organic agricultural production and handling:

Section 205.601 Synthetic Substances Allowed for Use in Organic Crop Production

The NOP regulation currently includes an exemption for chlorine materials for use in crop production at § 205.601(a)(2) as follows:

Chlorine materials—*Except,* That, residual chlorine levels in the water shall not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act.

(i) Calcium hypochlorite.

(ii) Chlorine dioxide.

(iii) Sodium hypochlorite.

The NOSB Crops Committee reviewed comments received on chlorine materials in response to the ANPR published on March 26, 2010 (75 FR 14500), and issued a committee recommendation on March 7, 2011. The Board noted that the current annotation does not accurately represent the 1995 NOSB recommendation for chlorine materials, which stated that chlorine may be used to disinfect and sanitize food contact surfaces and that ''residual chlorine levels for wash water in direct crop or food contact and in flush water from cleaning irrigation systems that is applied to crops or fields cannot exceed the maximum residual disinfectant limit under the Safe Drinking Water Act (currently 4 mg/L expressed as Cl2).'' [6] The NOSB Crops Committee also discussed a 2003 NOSB recommendation that suggested modification of the chlorine materials annotation to reflect the NOSB's intention that water in direct crop or soil contact should not have higher levels of chlorine than those permitted for municipal drinking water.[7] The NOP concurs with the NOSB that the current annotations for chlorine materials do not align precisely with the 1995 or 2003 recommendations of the Board.

At the April 2011 NOSB meeting, the Board received public comments on this issue and recommended the following change to the annotation for chlorine materials: ''For pre-harvest use, residual chlorine levels in the water in direct crop contact or as water from cleaning irrigation systems applied to soil must not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act. For disinfecting or sanitizing equipment or tools or in edible sprout production, chlorine products may be used up to maximum labeled rates.'' The NOSB stated that this revised annotation would clarify the allowance for chlorine materials and align with past NOSB recommendations and NOP policy.

The NOP agrees that this language addresses the intent of the NOSB to specify that water in direct contact with crops during production should not contain more chlorine than is permitted in municipal drinking water. The NOP issued final guidance (NOP 5026) on May 6, 2011, that is consistent with the April 2011 NOSB recommendation on chlorine materials for crop use.[8] This guidance document also clarifies that chlorine products may be used at labeled rates to disinfect or sanitize tools. The NOP also acknowledges that, while chlorine materials also have similar listings under § 205.603(a) for use in livestock operations, and § 205.605(b) for use in handling, the NOSB only voted to change the annotation for the use of chlorine in crops production.

The NOSB's recommended annotation change includes a clarification on the use of chlorine in edible sprout production. The NOP proposes to amend the chlorine listing to include the Board's clarification on edible sprouts. However, the NOP consulted the EPA and learned that a number of calcium hypochlorite products are labeled for use in disinfecting seeds used for sprouts. EPA label directions for sprout seed state that seed should be soaked at 20,000 ppm available chlorine followed by a rinse with potable water. The NOP is seeking comments on the appropriateness of this type of chlorine treatment for organic sprout production. The NOP also seeks information regarding other FDA and EPA approved materials or methods that can be used to comply with FDA guidance regarding safety of sprouts.[9] These specific uses and alternatives were not addressed by commenters in detail and may require additional clarification in the final rule.

AMS accepts the NOSB's recommendation, with a slight modification. The NOP clarified the use of chlorine on tools and equipment through guidance and, therefore, finds that including this language in the annotation change is unnecessary. This proposed rule would amend § 205.601(a)(2) to read as follows:

Chlorine materials—For pre-harvest use, residual chlorine levels in the water in direct crop contact or as water from cleaning irrigation systems applied to soil must not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act, except that chlorine products may be used in edible sprout production according to EPA label directions.

(i) Calcium hypochlorite.

(ii) Chlorine dioxide.

[6] NOSB, 1995. Final Minutes of the NOSB Full Board Meeting, Austin TX, Oct. 31–Nov. 4 1995. Page 18, line 611. Available at the NOP Web site: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5057496.*

[7] NOSB, 2003. Summary of Meeting Minutes, NOSB Meeting—May 13–14, 2003, page 4. Available at the NOP Web site: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5058538;* NOSB, 2003. Measuring Effluent: Clarification of Chlorine Contact with Organic Food, NOSB Processing Committee April 30, 2003. Available at the NOP Web site: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELDEV3104548.*

[8] NOP 5026. Guidance: The Use of Chlorine Materials in Organic Production and Handling. May 9, 2011. Available at the NOP Web site: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5090760.*

[9] FDA. Guidance for Industry: Microbial Food Safety Hazards for Sprouted Seeds. October 27, 1999. Available at the FDA Web site: *http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/ProduceandPlanProducts/ucm120244.htm.*

(iii) Sodium hypochlorite.

This amendment would be effective on the substance's current sunset date, October 21, 2012.

The National List currently includes an exemption for streptomycin for plant disease control in organic crop production at § 205.601(i)(11) as follows:

Streptomycin, for fire blight control in apples and pears only.

Streptomycin is derived from the soil bacterium *Streptomyces griseus* and can be used to control bacterial disease in crops.[10] In organic production, streptomycin is currently allowed as a synthetic substance to treat fire blight in apple and pear orchards. Streptomycin is one of two antibiotics (the other substance being tetracycline) on the National List that organic apple and pear growers can use for fire blight control. Fire blight is caused by the bacterium *Erwinia amylovora,* which is native to North America and lives on alternate hosts such as hawthorne and crabapple. It infects apple and pear blossoms and can spread rapidly through the tree vascular system to kill shoots and destroy trees. The bacterium can be moved from plant to plant by honeybees, other insects, birds, rain, wind, and hail.

As part of their review of the current exemption for streptomycin on the National List, the NOSB considered written comments received in response to the ANPR published on March 26, 2010 (75 FR 14500), and oral comments from their April 2011 public meeting. Some commenters expressed concerns about the potential for antibiotic overuse, potential for development of antibiotic resistance, and the impact of antibiotic use on the environment. Some commenters stated that there are some rootstocks (e.g. the Geneva series) that may provide resistance to fire blight, which, if used by organic growers, could reduce the need for streptomycin in organic production systems. The majority of the NOSB Crops Committee stated that selection of fire blight resistant varieties suitable for organic production should be a grower's first choice for disease control, rather than the use of streptomycin.

However, the NOSB also heard from other commenters who stated that research into alternatives to streptomycin for fire blight control is ongoing but has yet to deliver suitable alternatives. Public testimony at the April 2011 NOSB meeting suggested that, while there are apple varieties and rootstocks with differing degrees of resistance to fire blight, there is a lack of varieties that meet commercial demand for both good fruit quality and disease resistance. Other commenters pointed out that resistance is relative and all apple varieties are susceptible to fire blight to some extent. Red Delicious and Macoun are the least susceptible, with all newer commercial varieties being more susceptible. It was also pointed out that the resistance in the rootstock does not translate to resistance in the scion, leaving the tree vulnerable to infection. Varieties are normally replaced every 10–15 years and thus cannot be switched like changing a spray product; the cost of replanting an orchard can exceed $20,000 per acre. Pears tend to be uniformly more susceptible to fire blight than apples, and resistant germplasm does not appear to be available. Many organic apple and pear growers as well as disease specialists stated that fire blight management is very challenging and additional research is needed to develop effective alternatives to antibiotics. Researchers who commented at the NOSB meeting described one such tool, a new yeast product that may be effective to control fire blight as an alternative to streptomycin; however, this product has only had preliminary field trials, is not commercially available, and has not received registration from the EPA.

Organic growers further explained in their testimony to the NOSB that growers do not routinely apply streptomycin as a preventive every year, but only when conditions indicate risk of infection is high. Most growers use a predictive model such as Cougarblight or Maryblight to time antibiotic application with potential infection periods. Growers also stated that, while streptomycin has become ineffective in some growing areas due to resistance of the pathogen, it remains a critical tool in other regions of the U.S.

Given that proven effective alternatives are limited, and the impact that failing to renew the allowance for streptomycin would have on the organic apple and pear industry, the NOSB recommended extending the allowance of streptomycin for a limited time period. This limited extension is intended to allow for further development of alternative methods or substances for fire blight control in organic production. While some commenters explained that development of alternatives to streptomycin is 3 to 5 years from commercialization, the NOSB did not agree that the exemption for streptomycin should continue for another 5 years until the next sunset review in 2017. The NOSB opted to support a change in the annotation that would allow the use of streptomycin only until October 21, 2014. The NOSB anticipates that this expiration date will promote industry collaboration on the development of alternatives and prompt growers to use resistant varieties and other management practices for fire blight control on organic pear and apple operations. In response to the requests by the NOSB and the industry for additional resources to support research on alternatives to fire blight, the NOP issued letters to the USDA Agricultural Research Service (ARS) and National Institute of Food and Agriculture (NIFA) in May 2011 to request their assistance in prioritizing research on such alternatives.[11]

AMS accepts the NOSB's recommendation. This proposed rule would amend § 205.601(i)(11) to read as follows:

Streptomycin, for fire blight control in apples and pears only until October 21, 2014.

This amendment would be effective on the substance's current sunset date, October 21, 2012.

The National List currently includes an exemption for lignin sulfonate as a plant or soil amendment in organic crop production at § 205.601(j)(4) as follows:

Lignin sulfonate—chelating agent, dust suppressant, floatation agent.

Lignin sulfonate is listed twice on the National List under § 205.601; the first listing is for use as a plant or soil amendment, the second listing is for use as a floatation agent in post-harvest handling. During the sunset review for lignin sulfonate, the NOSB noted that including ''floatation agent'' as an allowable use under the first listing is incorrect. The substance is not used as a floatation agent for plant or soil amendments. Public comment also stated that lignin sulfonate is used as a floatation agent for post-harvest handling, and this use is currently allowed under the second listing for the substance at § 205.601(l)(1). Therefore, the NOSB recommended the first listing for lignin sulfonate at § 205.601(j)(4) be corrected to remove the language ''floatation agent'' from the annotation. The change to this annotation has no effect on the allowance of lignin sulfonate as a floatation agent for post-harvest handling under § 205.601(l)(1).

The Secretary accepts the NOSB's recommendation. This proposed rule

[10] Technical Report on Streptomycin. March 8, 2011. Available at the NOP Web site: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5090468.*

[11] May 2011 Letters submitted by NOP to USDA ARS and NIFA on fire blight research. Available at the NOP Web site: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5091325.*

would amend § 205.601(j)(4) to read as follows:

Lignin sulfonate—chelating agent, dust suppressant.

This amendment would be effective on the substance's current sunset date, October 21, 2012.

Section 205.605 Nonagricultural (Nonorganic) Substances Allowed as Ingredients in or on Processed Products Labeled as ''Organic'' or ''Made With Organic (Specified Ingredients or Food Group(s))''

The National List currently includes a listing for yeast as a nonsynthetic for use in or on processed products at § 205.605(a) as follows:

Yeast—nonsynthetic, growth on petrochemical substrate and sulfite waste liquor is prohibited (Autolysate; Bakers; Brewers; Nutritional; and Smoked—nonsynthetic smoke flavoring process must be documented).

At their October 2010 public meeting, the NOSB issued a recommendation for yeast under sunset review and a recommendation on a petition to change the current listing for yeast. The NOP is responding to both recommendations through a single action in this proposed rule to streamline and efficiently address the regulatory changes requested by the NOSB.

When the NOSB issued their 1995 recommendation for yeast, organic sources of yeast were not available. More recently, manufacturers have developed methods of production and obtained organic certification for yeast products.[12] Manufacturers have since advocated that yeast should be considered an agricultural substance and included on § 205.606, rather than on § 205.605(a). Inclusion of yeast on § 205.606 would require food processors to use organic yeast when it was commercially available. In August 2006, a petition was submitted to the NOSB requesting that yeast be removed from § 205.605(a) and listed on § 205.606.[13]

In their October 2010 deliberations on the status of yeast on the National List, the NOSB Handling Committee favored the potential for expanded use of organic yeast in processed organic products. However, the NOSB also expressed concern that moving yeast to § 205.606 would classify it as an agricultural nonsynthetic substance, a classification that would impact the status of yeast used in the livestock feed industry. Under the NOP regulations at § 205.237(a), all agricultural ingredients included in additives and supplements of livestock feed rations must be organic. If the NOSB were to recommend inclusion of yeast on § 205.606, then all yeast used in livestock feed supplements would need to be organic. This action would not serve the interests of livestock producers who feed yeast to livestock as a non-agricultural, non-synthetic feed supplement.

Based upon these considerations, the NOSB recommended an annotation change to the current listing for yeast at § 205.605(a). This annotation change is intended to lead to greater demand for organic products in both the handling and crop categories without elimination of an important source of supplements for organic livestock rations. In the recommendation, yeast would remain on § 205.605(a) with an amended annotation that would require yeast used as food or a fermentation agent to be organic if the end use is for human consumption, but would allow use of nonorganic yeast when equivalent organic yeast is not commercially available. Most comments received on yeast were supportive of this annotation change.

AMS accepts the NOSB's recommendation. This proposed rule would amend § 205.605(a) to read as follows:

Yeast—When used as food or a fermentation agent, yeast must be organic if its end use is for human consumption; nonorganic yeast may be used when equivalent organic yeast is not commercially available. Growth on petrochemical substrate and sulfite waste liquor is prohibited. For smoked yeast, nonsynthetic smoke flavoring process must be documented.

This amendment would be effective on the listing's current sunset date, October 21, 2012.

Section 205.606 Nonorganically Produced Agricultural Products Allowed as Ingredients in or on Processed Products Labeled as ''Organic''

The National List currently includes a listing for colors allowing their use in or on processed products at § 205.606(d) as follows:

Colors derived from agricultural products.

At their October 2010 public meeting, the NOSB issued a recommendation for colors under sunset review and a recommendation for an annotation change to the current listing for colors. The NOP is responding to both recommendations through a single action in this proposed rule to streamline and efficiently address the regulatory changes requested by the NOSB.

In March 2007, the NOSB recommended the addition of colors from agricultural products to § 205.606 of the National List. Their action was the result of several petitions submitted after the colors had been allowed to sunset from § 205.605(a) in 2007.

When the NOSB approved colors for addition to § 205.606, the Board did not consider including a restriction on the use of synthetics solvents in color extraction because the petitions specified colors that were only oil or water extracted using physical processing such as cutting, drying, or grinding. Some NOSB members also felt it was not possible to place restrictions on a nonorganic substance listed as permitted under § 205.606. At that time, some NOSB members emphasized that annotations on nonorganic substances should be limited to those which restrict the use of the listed substance instead of the process of producing it.

Because of the lack in specificity in the colors annotation, stakeholders have advised the NOSB through public comment that there is confusion as to whether synthetic solvents may be used to extract colors and whether use of synthetic solvents in the preparation of the colors listed on § 205.606 is within the intent of the listing. In response to this concern, the NOSB Handling Committee reviewed transcripts from the March 2007 meeting, petitions, and committee recommendations and concluded that the use of synthetic solvents was not reviewed by the NOSB and is, therefore, clearly outside of the intent of the current listing. In addition, the Handling Committee stated that solvent extraction of these colors is not necessary given that each color was petitioned as being available in the marketplace without synthetic solvent extraction. Public comments received at the October 2010 NOSB meeting also supported the NOSB's recommendation to change the annotation to prohibit solvent extraction and use of synthetic carriers or preservatives.

As part of their October 2010 recommendation, the NOSB also requested that the NOP review the Chemical Abstract Service (CAS) registration numbers for each of these food colors for accuracy and make any technical corrections necessary. The NOP agrees that, in some cases, the CAS numbers are incorrect as they refer to pigments that can be produced from a variety of sources rather than the

[12] The NOP issued guidance on March 2, 2010, (NOP 5014: Certification of Organic Yeast) to clarify that yeast may be labeled as organic provided certain guidelines are met. Available at the NOP Web site: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5087121.*

[13] The petition was submitted by Marroquin International Organic Commodity Services, Inc., and is available at the NOP Web site: *http://www.ams.usda.gov/NOPPetitionedSubstancesDatabase.*

nonsynthetic colors derived from agricultural sources that the NOSB reviewed. The NOP plans to correct these numbers through a future rulemaking action. This proposed rule would not amend the CAS numbers for colors; all CAS numbers for colors included under § 205.606(d) would continue to be listed as follows: Annatto extract color (pigment CAS # 1393–63–1)—water and oil soluble 107, Beet juice extract color (pigment CAS # 7659–95–2), Beta-carotene extract color from carrots (CAS # 1393–63–1), Black currant juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3), Black/purple carrot juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3), Blueberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3), Carrot juice color (pigment CAS # 1393–63–1), Cherry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3), Chokeberry—Aronia juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3), Elderberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3), Grape juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3), Grape skin extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3), Paprika color—dried powder and vegetable oil extract (CAS # 68917–78–2), Pumpkin juice color (pigment CAS # 127–40–2), Purple potato juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3), Red cabbage extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3), Red radish extract color (pigment CAS #'s 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3), Saffron extract color (pigment CAS # 1393–63–1), and Turmeric extract color (CAS # 458–37–7).

AMS accepts the NOSB's recommendation to change the annotation for colors. This proposed rule would amend § 205.606(d) to read as follows:

Colors derived from agricultural products—Must not be produced using synthetic solvents and carrier systems or any artificial preservative.

This amendment would be effective on the listing's current sunset date, June 27, 2012.

The Secretary specifically seeks comments on this proposed amendment with regard to the extent of use of carbon dioxide, a synthetic solvent that is on the National List at § 205.605(b), which may be used in a liquid state (supercritical carbon dioxide) to extract colors.

The National List currently includes a listing for hops allowing its use in or on processed products at § 205.606(l) as follows:

Hops (*Humulus luplus*).

At their October 2010 public meeting, the NOSB issued a recommendation for hops under sunset review and a recommendation on a petition to add an expiration date to the current listing for hops. The NOP is responding to both recommendations through a single action in this proposed rule to streamline and efficiently address the regulatory changes requested by the NOSB.

Hops are a perennial crop that is customarily grown under contract. Most hops are sold on forward contracts before planting. Hops plantings do not reach optimum production in one season of growth, so growers are unable to switch varieties on an annual basis. The variety of hops used dramatically influences the flavor of different beers, and the different varieties of hops grown distinguish many styles of beers.

Hops was added to the National List at § 205.206 in 2007 to enable brewers to make organic beer with conventionally grown hops in the absence of a commercially available supply of organically grown hops. At that time, industry comments indicated that a sufficient volume of organic hops in the varieties needed did not exist. After the 2007 listing of hops on § 205.606, grower expectations that brewers would begin to seek additional organic hops contracts did not materialize. In December 2009, growers petitioned the NOSB to remove hops from § 205.606 to expedite growth in the organic hops market.[14] This petition was reviewed by the NOSB concurrently with the sunset listing for hops.

The initial recommendation from the NOSB Handling Committee concerning hops was to renew its listing on § 205.606 of the National List without change. When this recommendation was published in the October 2010 NOSB meeting notice with a request for public comments (FR 75 57194), over 100 comments against the continuation of hops on § 205.606 were submitted by consumers, growers, organic associations, and academics. Hops brokers and growers commented that few brewers actively sought organic hops and voiced dissatisfaction with this situation, as it was commonly described as an effort to maximize profit by the brewers who wanted to produce organic beer at a premium price, but did not seek organic hops for their beer.

At their October 2010 public meeting, the NOSB heard comments from some organic brewers who stated they always used organic hops, and that there was no difficulty in obtaining the specific varieties of hops needed in commercial quantities. These brewers supported the removal of hops from § 205.606, and felt that sourcing all organic hops would not impede the growth and progress of their business. Other comments also indicated that, since organic beer labels are not required to list ingredients, customers and purveyors of beer rarely know whether the hops in their organic beer are organic. A majority of these commenters supported the removal of hops from § 205.606 so that consumers could be assured that organic hops is used in organic beer.

Many commenters also indicated that the availability of organic hops is now sufficient to supply the organic beer market. A few comments were received from brewers who maintained that an adequate organic supply of the varieties of hops needed for their beer varieties could not be sourced by the June 27, 2012, sunset date for hops.

In consideration of the comments received, and in acknowledgement of the time needed to establish a perennial crop and forward contracts, the NOSB determined that the best approach would be to relist hops on the National List at § 205.606 until January 1, 2013. This extension of the listing would allow brewers to source, when organic hops is not commercially available, from the 2011 and 2012 year supply of conventional hops, while fostering the development of purchasing arrangements for organic varieties from crops in 2013.

AMS accepts the NOSB's recommendation. The NOP also proposes a spelling correction to the binomial name for hops, currently misspelled at § 205.606. This proposed rule would amend § 205.606(l) to read as follows:

Hops (*Humulus lupulus*) until January 1, 2013.

This amendment would be effective on the current sunset date for hops, June 27, 2012.

The National List currently includes a listing for pectin allowing its use in or on processed products at § 205.606(s) as follows:

Pectin (high-methoxy).

[14] The petition was submitted by the American Organic Hop Growers Association and is available at the NOP Web site: *http://www.ams.usda.gov/NOPPetitionedSubstancesDatabase.*

At their October 2010 public meeting, the NOSB issued a recommendation for pectin (high-methoxy) under sunset review and a recommendation on a petition to change the forms of pectin allowed in organic handling. As discussed in the Removals section on low-methoxy pectin, the NOP is responding to both recommendations through a single action in this proposed rule. This is intended to streamline and efficiently address the regulatory changes requested by the NOSB. The result of this proposed rule would list all non-amidated (nonsynthetic) forms of pectin on § 205.606.

During the 2012 sunset review, the NOSB reviewed a petition requesting that the listing at § 205.605(b) for low-methoxy pectin be moved to § 205.606. The petitioner proposed that non-amidated forms of low-methoxy pectin are not synthetic.[15] The petitioner explained that the use of ammonia in the extraction process for producing pectin is limited to amidated forms of pectin and, therefore, only amidated forms should be considered synthetic. In consideration of this petition, the NOSB reviewed a Technical Report and a Supplemental Technical Report, both of which supported the petitioner's position.[16] The NOSB determined that amidation is a better indicator of whether the pectin is synthetic. Since all forms of pectin currently on the National List are available in non-amidated (nonsynthetic) form, the NOSB recommended that a single listing for non-amidated forms of pectin on § 205.606 would be more appropriate. If implemented, all amidated forms of pectin would be prohibited. Comments by organic food processors supported the NOSB recommendation and agreed that amidated pectin is not needed for organic processing.

AMS accepts the NOSB's recommendation. This proposed rule would amend § 205.606(s) to read as follows:

Pectin (non-amidated forms only).

This amendment would be effective on the current sunset date for pectin (high-methoxy), October 21, 2012.

[15] The petition was submitted by Crofters Food Ltd. and is available at the NOP Web site: *http://www.ams.usda.gov/NOPPetitionedSubstancesDatabase*.

[16] Technical Report on Non Amidated Low Methoxyl Pectin. August 17, 2009. Available at the NOP Web site: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5087206*; Supplemental Report on Non Amidated Low Methoxyl Pectin. July 30, 2010. Available at the NOP Web site: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5087205*.

III. Related Documents

An Advance Notice of Proposed Rulemaking (ANPR) was published in the **Federal Register** on March 26, 2010, (75 FR 14500) to make the public aware that the exemptions and prohibitions for 232 listings of synthetic and non-synthetic substances in organic production and handling will expire, if not reviewed by the NOSB and renewed by the USDA.

IV. Statutory and Regulatory Authority

The OFPA, as amended (7 U.S.C. 6501–6522), authorizes the Secretary to make amendments to the National List based on proposed amendments developed by the NOSB. Sections 6518(k)(2) and 6518(n) of OFPA authorize the NOSB to develop proposed amendments to the National List for submission to the Secretary and establish a petition process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion on or deletion from the National List. The National List petition process is implemented under § 205.607 of the NOP regulations. The current petition process (72 FR 2167, January 18, 2007) can be accessed through the NOP Web site at: *http://www.ams.usda.gov/nop*.

A. Executive Order 12866

This action has been determined not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget.

B. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. This proposed rule is not intended to have a retroactive effect.

States and local jurisdictions are preempted under the OFPA from creating programs of accreditation for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in § 2115(b) of the OFPA (7 U.S.C. 6514(b)). States are also preempted under §§ 2104 through 2108 of the OFPA (7 U.S.C. 6503 through 6507) from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of the OFPA.

Pursuant to § 2108(b)(2) of the OFPA (7 U.S.C. 6507(b)(2)), a State organic certification program may contain additional requirements for the production and handling of organically produced agricultural products that are produced in the State and for the certification of organic farm and handling operations located within the State under certain circumstances. Such additional requirements must: (a) Further the purposes of the OFPA, (b) not be inconsistent with the OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

Pursuant to § 2120(f) of the OFPA (7 U.S.C. 6519(f)), this proposed rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601–624), the Poultry Products Inspection Act (21 U.S.C. 451–471), or the Egg Products Inspection Act (21 U.S.C. 1031–1056), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), nor the authority of the Administrator of EPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*).

Section 2121 of the OFPA (7 U.S.C. 6520) provides for the Secretary to establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that adversely affects such person or is inconsistent with the organic certification program established under this title. The OFPA also provides that the U.S. District Court for the district in which a person is located has jurisdiction to review the Secretary's decision.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Pursuant to the requirements set forth in the RFA, AMS performed an economic impact analysis on small entities in the final rule published in the **Federal Register** on December 21, 2000 (65 FR 80548). AMS has also considered the economic impact of this action on small entities. The impact on entities affected by this proposed rule would not be significant. The effect of this proposed rule would be to allow the continued use of additional substances in agricultural production and handling. AMS concludes that the economic impact of this addition of allowed substances, if any, would be minimal and beneficial to small agricultural service firms. Accordingly, USDA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Small agricultural service firms, which include producers, handlers, and accredited certifying agents, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000 and small agricultural producers are defined as those having annual receipts of less than $750,000.

According to USDA, Economic Research Service (ERS) data based on information from USDA-accredited certifying agents, the number of certified U.S. organic crop and livestock operations totaled nearly 13,000 and certified organic acreage exceeded 4.8 million acres in 2008.[17] ERS, based upon the list of certified operations maintained by the NOP, estimated the number of certified handling operations was 3,225 in 2007.[18] AMS believes that most of these entities would be considered small entities under the criteria established by the SBA.

The U.S. sales of organic food and beverages have grown from $3.6 billion in 1997 to nearly $21.1 billion in 2008.[19] The organic industry is viewed as the fastest growing sector of agriculture, representing over 3 percent of overall food sales in 2009. Between 1990 and 2008, organic food sales historically demonstrated a growth rate between 15 to 24 percent each year. In 2010, organic food sales grew 7.7%.[20]

In addition, USDA has 94 accredited certifying agents who provide certification services to producers and handlers. A complete list of names and addresses of accredited certifying agents may be found on the AMS NOP web site, at *http://www.ams.usda.gov/nop.* AMS believes that most of these accredited certifying agents would be considered small entities under the criteria established by the SBA.

D. Paperwork Reduction Act

No additional collection or recordkeeping requirements are imposed on the public by this proposed rule. Accordingly, OMB clearance is not required by section 350(h) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520, or OMB's implementing regulations at 5 CFR part 1320.

E. General Notice of Public Rulemaking

This proposed rule reflects recommendations submitted to the Secretary by the NOSB for substances on the National List of Allowed and Prohibited Substances that, under the sunset review provisions of OFPA, would otherwise expire in 2012. A 30-day period for interested persons to comment on this rule is provided. Thirty days is deemed appropriate because the review of these listings was widely publicized through three NOSB meetings and an ANPR, the use, prohibition, and amendments to these substances, as applicable, are critical to organic production, and this rulemaking should be completed before the earliest 2012 sunset date, June 27, 2012.

List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205, is proposed to be amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

2. Section 205.601 is amended by:

A. Revise paragraph (a)(2);

B. Revise paragraph (g);

C. Revise paragraph (i)(11); and

D. Revise paragraph (j)(4) to read as follows:

§ 205.601 Synthetic substances allowed for use in organic crop production.

(a) * * *

(2) Chlorine materials—For pre-harvest use, residual chlorine levels in the water in direct crop contact or as water from cleaning irrigation systems applied to soil must not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act, except that chlorine products may be used in edible sprout production according to EPA label directions.

(i) Calcium hypochlorite.

(ii) Chlorine dioxide.

(iii) Sodium hypochlorite.

* * * * *

(g) As rodenticides. Vitamin D_3.

* * * * *

(i) * * *

(11) Streptomycin, for fire blight control in apples and pears only until October 21, 2014.

* * * * *

(j) * * *

(4) Lignin sulfate—chelating agent, dust suppressant.

* * * * *

4. Section 205.605 is amended by:

A. Revise the annotation for ''Yeast'' under paragraph (a);

B. Remove ''Pectin (low-methoxy)'' from paragraph (b); and

C. Remove ''Potassium iodide'' from paragraph (b). The revision reads as follows:

§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food groups(s)).''

* * * * *

(a) * * *

* * * * *

Yeast—When used as food or a fermentation agent, yeast must be organic if its end use is for human consumption; nonorganic yeast may be used when equivalent organic yeast is not commercially available. Growth on petrochemical substrate and sulfite waste liquor is prohibited. For smoked yeast; nonsynthetic smoke flavoring process must be documented.

* * * * *

5. Section 205.606 is amended by:

A. Revise paragraph (d);

B. Revise paragraph (l); and

C. Revise paragraph (s), the revisions read as follows:

[17] U.S. Department of Agriculture, Economic Research Service. 2009. *Data Sets: U.S. Certified Organic Farmland Acreage, Livestock Numbers and Farm Operations, 1992–2008.* Available at: *http://www.ers.usda.gov/Data/Organic/.*

[18] U.S. Department of Agriculture, Economic Research Service, 2009. *Data Sets: Procurement and Contracting by Organic Handlers: Documentation.* Available at: *http://www.ers.usda.gov/Data/OrganicHandlers/Documentation.htm.*

[19] Dimitri, C., and L. Oberholtzer. 2009. *Marketing U.S. Organic Foods: Recent Trends from Farms to Consumers,* Economic Information Bulletin No. 58, U.S. Department of Agriculture, Economic Research Service. Available at: *http://www.ers.usda.gov/Publications/EIB58.*

[20] Organic Trade Association's *2011 Organic Industry Survey.* Available at: *http://www.ota.com.*

§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled ''organic''.

* * * * *

(d) Colors derived from agricultural products—Must not be produced using synthetic solvents and carrier systems or any artificial preservative.

* * *

* * * * *

(l) Hops (*Humulus lupulus*) until January 1, 2013.

* * * * *

(s) Pectin (non-amidated forms only).

* * * * *

Dated: January 6, 2012.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2012–362 Filed 1–11–12; 8:45 am]

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H.R. 1540/P.L. 112–81

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H.R. 515/P.L. 112–82

Belarus Democracy and Human Rights Act of 2011 (Jan. 3, 2012; 125 Stat. 1863)

H.R. 789/P.L. 112–83

To designate the facility of the United States Postal Service located at 20 Main Street in Little Ferry, New Jersey, as the ''Sergeant Matthew J. Fenton Post Office''. (Jan. 3, 2012; 125 Stat. 1869)

H.R. 1059/P.L. 112–84

To protect the safety of judges by extending the authority of the Judicial Conference to redact sensitive information contained in their financial disclosure reports, and for other purposes. (Jan. 3, 2012; 125 Stat. 1870)

H.R. 1264/P.L. 112–85

To designate the property between the United States Federal Courthouse and the Ed Jones Building located at 109 South Highland Avenue in Jackson, Tennessee, as the ''M.D. Anderson Plaza'' and to authorize the placement of a historical/identification marker on the grounds recognizing the achievements and philanthropy of M.S. Anderson. (Jan. 3, 2012; 125 Stat. 1871)

H.R. 1801/P.L. 112–86

Risk-Based Security Screening for Members of the Armed Forces Act (Jan. 3, 2012; 125 Stat. 1874)

H.R. 1892/P.L. 112–87

Intelligence Authorization Act for Fiscal Year 2012 (Jan. 3, 2012; 125 Stat. 1876)

H.R. 2056/P.L. 112–88

To instruct the Inspector General of the Federal Deposit Insurance Corporation to study the impact of insured depository institution failures, and for other purposes. (Jan. 3, 2012; 125 Stat. 1899)

H.R. 2422/P.L. 112–89

To designate the facility of the United States Postal Service located at 45 Bay Street, Suite 2, in Staten Island, New York, as the ''Sergeant Angel Mendez Post Office''. (Jan. 3, 2012; 125 Stat. 1903)

H.R. 2845/P.L. 112–90

Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Jan. 3, 2012; 125 Stat. 1904)

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